

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE COURT OF THE DRAINAGE REFEREE

BETWEEN:

CORY KITTEL

Applicant

-and-

THE CORPORATION OF THE TOWNSHIP OF WILMOT

Respondent

-and-

OTHERS WHO MAY BE GRANTED PARTY STATUS UPON APPLICATION

Respondents

AFFIDAVIT

I, Cory Kittel, of the Township of Wilmot, in the Province of Ontario, MAKE OATH

AND SAY:

1. I am the named Applicant in this legal proceeding and as such I have knowledge and information pertaining to the matters referred to in this affidavit. To the extent such information is based on my information and belief, I have set out the source of such information, all of which I believe to be true.
2. For the purposes of providing additional commentary and to add visual context in relation to this affidavit, I have prepared the slide deck that is affixed hereto as **Exhibit "A"**.
3. I also incorporate into this affidavit all of the facts as stated in my Notice of Application, issued on December 20, 2023. In the event that any fact in this

affidavit is inconsistent with a fact in the Notice of Application, the statement of fact in this affidavit is intended to prevail. The Notice of Application is affixed hereto as **Exhibit “B”**.

4. I hold title to a 39.66-hectare farm which is identified municipally as 1010 Gerber Road, in the Township of Wilmot, in the Province of Ontario. The farm is located at Block B, Concession 3, Part-lot 9. The roll number for this property is 301808000916500. Affixed hereto as **Exhibit “C”** is an aerial photograph from the Region of Waterloo GIS locator website that depicts the farm.
5. I grew up on this farm and moved back here after some time away. I currently reside there along with my wife, mother and children. On September 11, 2021, we moved into a new house, the location of which is within the blue circle on **Exhibit “C”**. My three children are the sixth generation of the family to live on this farm.
6. The farm fields are regularly utilized to grow agricultural crops, which generate a profit and feed livestock.
7. Topographically, my farm can be described as one big hill. From the high point at the northern boundary of the farm, there is a steady decrease in elevation down to the Bamberg Creek, which flows in a south-westerly direction across the southern portion of my farm. This creek is within the regulation limit of the Grand River Conservation Authority (herein the “GRCA”). Affixed hereto as **Exhibit “D”** is a map depicting the regulation limit of the GRCA.
8. There is a saucer-like depression on the west property line of my farm near its south-west boundary. Part of that saucer is also situated near the south-east boundary of the farm immediately west of mine (Block B, Concession 3, Part-lot 10), which is owned by Jananna Corp. A pond of water that was consistently present in the saucer, has rarely been present since the Jananna Corp. farm was systematically tiled in or about May of 2018. The saucer-like depression is a GRCA-recognized waterbody. The map at **Exhibit “D”** indicates that the saucer

is within the regulation limit of the GRCA. Affixed hereto as **Exhibit “E”** is a GRCA map depicting the location of the pond. Affixed hereto as **Exhibit “F”** are a number of contour outline maps depicting the saucer-like area. Slides 91 to 101 found in **Exhibit “A”** also depict the saucer-like area.

9. There is another smaller saucer-shaped depression located further north along the same western property boundary of my farm (see the first page of **Exhibit “F”**).
10. Throughout 2017 and early 2018, I had a few conversations and exchanged emails with Wilmot’s Drainage Superintendent, John Kuntze, regarding a mutual agreement drain for an outlet across my farm to drain the more southerly saucer, on the Jananna Corp farm. No mutual agreement for drainage was ever arrived at as communications ceased. Attached hereto as **Exhibit “G”** is a copy of the written communications exchanged with the Drainage Superintendent regarding the mutual agreement drain.
11. The Jananna Corp. farm was systematically tiled in May of 2018. The tile system outlets into the Koch-Leis Drain. The field tile appears to have been laid right up to the visible edges of the southern saucer. Although I provided a copy of the tile plan to the Engineer at our meeting on or about February 9, 2023, the plans in the Drainage Report filed shortly afterwards do not depict such extensive tiling on the Jananna Corp. farm. Those plans lead readers to believe, I believe they do so mistakenly, that an approximately 5-acre parcel of land at the southeast portion of the Jananna farm is not tiled. My working assumption based on the tile plan I gave to the Engineer is that there is an existing outlet for all of the tile that has currently been laid on the Jananna Corp. farm. Only about one acre of land near the southern saucer has not been tiled. The tile drainage plan showing the tile that I believe to be currently in the ground on that property can be found at **Exhibit “H”**.
12. Although some of the land within and near the southern saucer is not serviced by

tile, the land within the southern saucer has been far drier on both farms since the Jananna Corp. farm was tiled. This has allowed for higher yields in the saucer on their property. Attached hereto as **Exhibit “I”** is a video depicting the land in the southern-saucer on the Jananna Corp. farm being tilled by a farm implement pulled by a tractor in November of 2023.

13. Jananna Corp. filed a petition for drainage with Wilmot Township on April 26, 2021. In the petition the area requiring drainage described as: “N ½ Lot 10, Concession 3B, 1184 Gerber Road”. Affixed hereto as **Exhibit “J”** is a copy of the petition and an aerial photograph with overlay showing proposed closed drain extending across my farm to outlet into the Bamberg Creek.
14. The drainage diagram overlay on the aerial photograph at page three of **Exhibit “J”** indicates that at the time the petition was signed the Wilmot Drainage Superintendent proposed improved drainage along the western boundary of my farm and the eastern boundary of the Jananna Corp. farm, especially for the segment of boundary that lies between the two aforementioned saucer-like depressions.
15. The petition was accepted by Council resolution on May 17, 2021. Affixed hereto as **Exhibit “K”** is a copy of the the Council meeting minutes.
16. On July 12, 2021, Wilmot Council made resolution no. 2021-27 approving report no. ILS 2021-27, which report recommended that “Headway Engineering be appointed as drainage engineer to prepare the engineer’s report relative to the petition for drainage works”. As of July 12, 2021, no comments had been received from the GRCA or from the Ministry of Natural Resources and Forestry. According to the report, there were “no financial considerations”. Affixed hereto

as **Exhibit “L”** is a copy of the report and Council meeting minutes.

17. Headway Engineering held an on-site meeting at the Jananna Corp. farm on September 22, 2021, eleven days after my family moved into the new house on the farm. I did not receive notice of the onsite meeting until after it had already concluded, since the notice to my wife and I was mailed to 1060 Henry Street in Wellesley. I did not attend the on-site meeting. Affixed hereto as **Exhibit “M”** is a copy of the on-site meeting notices, mailing list, plan of proposed works, filled attendance sheet and the engineer’s notes from the on-site meeting.
18. There is no reference to the area requiring drainage or to the validity of the petition in any of the documents in **Exhibit “M”**. Perhaps neither was determined at the on-site meeting. This comes as a surprise to me since s. 9(2) of the *Drainage Act*, R.S.O. 1990, c. D.17 requires that the engineer is to determine both the area requiring drainage and the petition validity at the on-site meeting.
19. When I learned that the on-site meeting had taken place regarding the proposed Jananna Drain I sent an email to Stephen Brickman, the Headway engineer in charge of the drain project, asking him for answers to the following questions:
 - a) What are the problems we are trying to solve?
 - b) Cost/benefit analysis – is the work and expense worth it?
 - c) Who is benefitting? To what benefit?

Adequate answers to these questions have not been provided by the Engineer to date, which is a major concern since I am one of the landowners who is to contribute a substantial portion of the cost of the proposed works. Affixed hereto as **Exhibit “N”** is a copy of the emails I sent to the engineer attempting to have these questions answered.

20. The first public information meeting was held on September 29, 2022. I attended along with a few of the other interested local landowners. It was at this meeting

that a second independent branch of the drain on the West side of the Jananna Corp. farm was proposed along with improvements to the Bamberg Creek. I was surprised by the west-branch addition since it was well outside of the watershed depicted in the plan from the on-site meeting (see **Exhibit “M”**). During this meeting there was a great deal of discussion about drainage concerns relating to the saucer area near a pond on the property. I advised that I would do my best to address the underlying problem, if one existed, which I was not previously aware of. Affixed hereto at **Exhibit “O”** is a copy of the meeting notice, an invite list, a slide deck presentation and an attendance list from the first public information meeting.

21. The sheer size of the proposed scope and estimated total assessment cost of \$409,000.00 left me and many of the other landowners in a state of shock. Three quarters of the cost related to the west branch and the Bamberg Creek improvements which we hardly even knew was to occur. I am not aware of any subsequent petition that initiated the process for construction of the west branch.
22. Throughout this petition process I have attempted to foster an open channel of communication with the family that is associated with Jananna Corp., the Engineer and the Drainage Superintendent. My efforts to communicate have not been reciprocated by the family associated with Jananna Corp.
23. The first public information meeting left the landowners with an understanding that a closed municipal drain branch was to be constructed from each of two points of commencement on the Jananna Corp. property. The head of the West Branch was at Gerber Road, which branch was to extend downstream southwards along the western boundary of the Jananna Corp. property, then extend in a south-eastern direction to eventually outlet into the Koch-Leis Drain. The head of the East Branch was to commence near the more northerly saucer-like depression on western boundary of my property, then extend downstream in a south-eastern direction parallel to the western property line. At the southern saucer, the East Branch was to extend downstream eastwards across my property to outlet into

the Bamberg Creek.

24. The second public information meeting was held on November 24, 2022. At this meeting improvements were proposed to the lower end of the Koch-Leis Drain. This additional work increased the estimated total assessment cost to \$462,900.00. Affixed hereto at **Exhibit “P”** is a copy of the meeting notice, an invite list, a slide deck presentation and an attendance list from the second public information meeting.
25. In January and February of 2023, many of the landowners who would eventually be assessed in the report signed a petition to demonstrate their collective opposition to the construction of the Jananna Municipal Drain. Affixed hereto as **Exhibit “Q”** is a copy of the counter-petition.
26. On May 5, 2023, Headway Engineering filed a drainage report respecting the Bamberg Creek drain, Jananna branch drains, and Koch-Leis Municipal Drain improvements with Wilmot’s Clerk. In the report, the total assessment was for \$462,900.00, before deductions for government grants and allowances. Affixed hereto as **Exhibit “R”** is a copy of the drainage report.
27. The Drainage Report was mailed out on or about June 1, 2023.
28. I have always been a firm opponent of the works proposed in the Drainage Report due to my belief that the financial cost of the works for the assessed landowners outweighs the potential drainage benefits for those landowners. Affixed hereto as **Exhibit “S”** is a slide deck that contains my cost-benefit analysis.
29. On June 6, 2023, I emailed the Drainage Superintendent asking him what made the petition valid after it was initially filed with Wilmot. He informed me that according to the *Drainage Act*, the engineer has the role of determining whether the petition is valid following the on-site meeting. He also informed me that the Engineer noted the validity of the petition in the Drainage Report. Affixed hereto

as **Exhibit “T”** is a copy of the emails exchanged with the Drainage Superintendent.

30. On June 7, 2023, I contacted the Drainage Program Coordinator for the Ministry of Agriculture, Food, and Rural Affairs, Tim Brook, and he informed me that the engineer must define the area requiring drainage in order to determine whether a petition is valid by having met at least one of the requirements set out in section 4 of the *Drainage Act*. Affixed hereto as **Exhibit “U”** is a copy of an email I received from Tim Brook.
31. After learning about the significance of the area requiring drainage and its relation to the validity of the petition, I realized that the area requiring drainage is only defined once in the Drainage Report, under the 2.0 Project Authorization heading as, “part of Lot 10, Concession 3, Block B”. See **Exhibit “R”**.
32. I am not aware of any more specific description of the area requiring drainage in any other document or presentation that has been produced by Headway Engineering to date.
33. The southern saucer is a defined low-lying basin that extends onto both the Jananna Corp. property and onto my property. The majority of this area lies on my property. Even the original drainage petition visually shows the drainage area covers parts of both properties. All the mapping applications also show a consistent and defined drainage area, currently and historically, that is on my property and the Jananna Corp. property. I believe this saucer to be the area requiring drainage.
34. Since the two proposed branch drains are separated by a ridge in the middle of the Jananna Corp. property, along the north-south axis, I hold the opinion that the west branch is not part of the same area requiring drainage as the east branch. As far as I am aware, there is only one petition. Affixed hereto as **Exhibit “V”** is a contour outline from the GRCA mapping application showing the topography of the Jananna Corp. farm.

35. The West Branch appears to have been engineered to provide an outlet for water flowing from a culvert beneath Gerber Road. This added drain was not contemplated on the original petition, was not part of the on-site meeting plan provided to invitees and does not have its own petition.
36. Based on the Drainage Superintendent's design overlaid on an aerial photograph appended to the petition, the petition clearly illustrates how it is only intended to obtain drainage near the east boundary of the Jananna Corp. property. See aerial photograph at **Exhibit "J"**.
37. I recognize that I am not an expert for the purposes of defining an area requiring drainage, but I believe that the evidence relating to the two saucers on the west boundary of my property show that at least 60 percent of each saucer is on my property. Affixed hereto as **Exhibit "W"** is an excerpt from my slide deck showing the area requiring drainage at the southern saucer. Since no owner of my farm has signed the petition, it must be invalid, as it would not meet the requirements of paragraph 4 (1)(a) and (b) of the *Drainage Act*. I do not think that a road authority signature would validate the petition since the East Branch does not connect with a road or part thereof.
38. A letter was signed by me and a number of other assessed landowners on or about June 8, 2023. In the letter we asked Council to reject the petition since the requirements of s. 4(1)(a) or (b) of the *Drainage Act* had not been met. The letter was emailed to Wilmot's councillors on or about June 12, 2023. Affixed hereto as **Exhibit "X"** is a copy of the letter and email to the councilors.
39. On June 15, 2023, Councillor Stewart Cressman (Ward 1) attended at my farm to view the drainage situation. The purpose of this meeting was so that a few of the landowners could explain the petition validity concerns and how the significant cost of constructing the drain was not worth the minor improvement to the drainage situation that it is anticipated to have. Affixed hereto as **Exhibit "Y"** is an

email that I sent to Councillor Cressman.

40. On June 17, 2023, Councillor Steve Martin (Ward 4) attended a guided site tour.
41. The Clerk/Manager of Legislative Services, Jeff Bunn, emailed the Drainage Superintendent on June 14, 2023, asking for advice on the petition validity issue. He advised them that I could appeal the validity of the petition to the Court of the Drainage Referee, who could then rule that it is invalid. The Drainage Superintendent also suggested that the councillors could contact Paul Courey should they wish to obtain a legal opinion regarding the issues of petition validity and area requiring drainage. Affixed hereto as **Exhibit “Z”** is a thread of emails exchanged between the councillors and the Drainage Superintendent.
42. The Wilmot Council held a meeting to consider the drainage report on June 26, 2023. Early in the meeting a closed meeting of the Council was held to obtain advice on a drainage matter that was subject to solicitor-client privilege. The lawyer that they obtained advice from was Paul Courey. Later in the meeting, pre-registered members of the public were allowed to make submissions for up to seven minutes each to Council to outline their reasons why the drainage works proposed in the report should not proceed. Those who protested an aspect of the proposed drain either in writing or orally included:
 - a) Cory Kittel – assessed landowner – concerns regarding validity of petition;
 - b) Peter Wurtele - assessed landowner;
 - c) Ron McCormick - assessed landowner;
 - d) Rosemary McCormick - assessed landowner;
 - e) Ted Derry - on behalf of the Avon Trail Association – concern regarding the integrity of the trail and a nearby bridge;
 - f) Elena Borissova - assessed landowner – concerns regarding petition and proposed works;
 - g) Kevin Thomason - environmentalist;
 - h) Oleg Borissova - assessed landowner – concerns regarding petition and

proposed works; and,

- i) Kenneth Heintz - assessed landowner – concerns regarding design of and need of proposed drain.

- 43. Even though there was lots of information supplied ahead of time, a closed meeting on the petition validity and area requiring drainage issues and even though delegates raised the issue during their time to speak, the Engineer did not touch on either topic. There was no explanation, no defence, nothing. None of the Councillors challenged the Engineer to address the issues. Unfortunately, the issues were avoided. It felt as though we were just going through the motions at the meeting to consider.
- 44. Following is a quote from Councillor Kris Wilkinson who made the statement at the end of the meeting to consider:

The understanding of the facts as presented to this point is that through the *Drainage Act* and a petition being submitted it then creates an administrative course for council to carry out the requirements of a provincial piece of legislation which is in essence what we are tasked with doing. Through that the first step is that an engineer is appointed and the engineer is granted quasi-judicial powers, in essence their job is to assess the situation and ultimately decide whether or not the petition as presented initially is valid or invalid.

Through fact checking and sound advice I can confirm that one signature does indeed make a petition valid. The reason the drainage area grew is due to Section 32 of the *Drainage Act* which reads “Where, in the opinion of the engineer, the cost of continuing a drainage works to a sufficient outlet or the cost of constructing or improving a drainage works with sufficient capacity to carry off the water will exceed the amount of injury likely to be caused to low-lying lands along the course of or below the termination of the drainage works, instead of continuing

the works to such an outlet, or making it of such capacity, the engineer may include in the estimate of cost a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage works, and in the report the engineer shall determine the amount to be paid to the owners of such low-lying lands in respect of such injuries.

The best interpretation I heard of this particular clause is in essence that an engineer will address the issues in the low-lying area but can't just leave the water to drain and hope for the best. They have to cure the situation as a whole which requires upstream and downstream modifications of the land and the drainage so that they can cure the problem, not pass it on so that next season the next farm requires drainage or after that the next farm requires drainage. That's the cause as to why the drainage area has grown to 220 hectares. The petitioner has every right to build berms and block the water from entering their property which would then cause additional problems for surrounding neighbours and farms. So to prevent that from happening and to also prevent water and fertilizer and other waste from running off into these creeks and drainage outlets, the role of the petition is to address all of that.

The role of the Township in this case is to advance and perform the administrative tasks set out by the *Drainage Act*. We are not technical experts. We are not engineers. But our task is ultimately to advance the process. And another thing we have to weigh is also the needs of the few versus the needs of the many. And ultimately turning this down could put the Township in a situation where we would face liability, and the costs to that are unknown. I cannot look a taxpayer in the face and tell them that I potentially need to raise their taxes to cover the costs and damages due to a situation that we created by putting us in a liable situation. So based on the facts presented the best supported decision

is one in which council ultimately should uphold the existing petition. And advise that if there are parties in opposition, there are routes to appeal, whether that be through Court of Revision, through a proper appeal channel which could in turn be a Drainage Referee or Drainage Tribunal. That is all I have to say on this.

45. Despite the substantial amount of express opposition to the Drainage Report, the Council adopted it by passing of Provisional By-law no. 2023-32. A Court of Revision hearing was scheduled for August 16, 2023. Councillor Cressman and Councillor Wilkinson were appointed as members of the Court of Revision. Affixed hereto as **Exhibit “AA”** are the Council meeting minutes and the provisional by-law.
46. A summary of my post-meeting to consider correspondence with Councillor Wilkinson regarding the Council’s legal position in relation to the petition issues can be found at slides 167 to 173 of **Exhibit “BB”**.
47. After the Court of Revision, Councillor Wilkinson mentioned in the parking lot that even though he may have disagreed with the Engineer. He agreed that this matter was being pushed towards the appeals process.
48. When the Waterloo court staff did not know what to do with my formal Notice of Appeal to the Court of the Drainage Referee back in September of 2023, I commenced a proceeding with the Drainage Tribunal. That proceeding has since been stayed pending the outcome of this application that is before the Court of the Referee. The Tribunal asked Paul Courey, then legal counsel for Wilmot, to notify it once the Referee has made a final decision in this proceeding. Documents relating to the Tribunal proceeding are affixed hereto as **Exhibit “CC”**.

49. This affidavit is sworn in connection with the within application/appeal and for no other or improper purpose.

SWORN on April 2, 2024, in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*, by video conference by Cory Kittel in the Township of Wilmot, in the Province of Ontario, before me in the City of London, in the Province of Ontario,



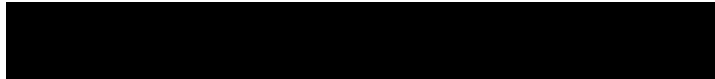
Commissioner for Taking Affidavits
(or as may be)

SAMUEL KIRWIN (LSO no.: 81800K)

CORY KITTEL

Exhibit “**A**” to the Affidavit of Cory Kittel

Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Kittel v Wilmot (Township)

Applicant Supporting Affidavit & Exhibits

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Prologue

- The Applicant recently moved back to the family farm along with his wife, mother and three children, who represent the 6th generation to live on the farm. The family broke ground on a new home Sept 23, 2020 and moved in Sept 11, 2021 with the hope of rejuvenating the farm.
- Only after 11 days in their new home, they received a letter from Headway Engineering (Engineer) outlining plans for proposed drainage works on their property. After having undergone the biggest expense of the Applicant's life, the potential of paying for expensive engineered drainage works, for reasons not yet known, was not welcome news.
- The letter invited the Applicant to a meeting that had already passed.
- Already off to a rocky start and for promises not kept during the planning stages, the Applicant has been critical of this project from the start. His unwillingness to accept the information provided at face value has not sat well with the parties (Township, Engineer, Petitioner) colluding to push it through.

- Being part of an appeal process is not something anyone wishes to be part of. Nobody wants to be in this position.
- The Applicant finds himself in this position because he's representing 16 other farmers and landowners who also see two very glaring and obvious problems (among many others) with this project.
- Collectively, the watershed community are here because they had no choice. Attempts were made to get answers from the Township before the meetings, at the meetings, and after the meetings.
- Through a very one-sided municipal-led process, they offered very little. The message was clear, if we wanted answers, the appeal process would be our only route.
- The Applicant is also here because time and time again throughout this process, it is written that it's his right for a fair, objective, unbiased look at the obvious facts and he's here to find out if that is true.
- Finally, the Applicant is here because he wants to seek justice, democracy and more importantly, common-sense prevail.

Backstory

- Prior to the Petition that led to the proposed Jananna Drainage Works under the Drainage Act, it is worth noting past activities that transpired, which formed the basis of the Petition and that are very relevant to the area requiring drainage.
- Late 2017 was the start of some very brief communication regarding some proposed drainage works impacting the Jananna property and possibly the farm owned by the Applicant's family.
- This was not a decision the Applicant could have made on his own at the time, but he became involved in a capacity to receive and relay the information.
- There was no opposition to the proposed works, but there was a request for more information, as no decision can be made without all the proper information and information received in a timely manner.
- Below are the timeline of events that the Applicant is aware of during this time...

Fall 2017	Jananna Corp. (Petitioner) member, Christine Gawron, calls Applicant's mother (Age 71 and widowed), who was living alone on the farm at the time, regarding Jananna's plans for field tile for their property and sharing in the cost. Upon learning about the call, the Applicant offered to get all the details. A cordial but very brief phone call was had with Gawron (Jananna), who the Applicant has never met in-person or spoken to in the past. Details were very light, so the Applicant requested more information regarding the plan. Gawron (Jananna) directed the Applicant to reach out to the Township.
Early Nov 2017	The Applicant made a phone call into the Township where the Applicant did eventually connect with the Drainage Superintendent. The Drainage Superintendent committed to following-up with more information.
Nov 24/2017	Not yet having received a response, the Applicant sent an email to the Township, proactively checking in on the additional information that was promised. No response was received.
Nov 24/2017 - Apr 24/2018	Five months had passed and still the Applicant had not received any details about the proposed project or received a response to his email.
Apr 24/2018	A memo was sent to the Applicant from the Township Drainage Superintendent with some of the details requested back in November of 2017. Still no pricing, timeline or cost sharing details were provided.
Apr 27/2018	The Applicant emailed the Drainage Superintendent to arrange a follow-up call to discuss the details. The Applicant does not recall receiving a call back. Communication drops off after that. No communication from Jananna. No communication from the Drainage Superintendent. No follow-up.
May 2018	Leaving the Applicant with incomplete information and allowing the Applicant no time with the information received, Jananna and their drainage installer proceed and complete the systematic field tiling of the Jananna fields.
June 26/2023	After hearing on a few occasions that the Drainage Superintendent was referring to this past situation as a 'neighbours dispute', the Applicant sends an email to the Drainage Superintendent to clarify his statements.

- It was unknown to the Applicant, but the drainage installers were already in the fields and scheduled to start work by the time the Applicant received any information.
- Even though the Township said this was not a Township responsibility, Jananna left all the communication to the Township and the Drainage Superintendent.
- Unfortunately the communication was very disjointed. All that was received from Jananna was a very brief phone call at the start and an email response to the memo. No other phone calls, no site visits, no knock on the door, not even an opportunity to meet in person. When the communication disappeared, the only assumption the Applicant could make was that they figured out a solution on their own, which in fact looked to be the case when you could see the noticeable improvements to their field conditions.
- The memo from the Township Drainage Superintendent dated April 24, 2018 clearly provides further evidence that the drainage works proposed in this memo forms the motivation and basis of the Petition and the area requiring drainage.
- Throughout the current drainage works process initiated via the Drainage Act, the Applicant has reiterated to Jananna the need for improved communication.



Cory Kittel <corykittel@gmail.com>

Tile Plan Gowron Property

Cory Kittel [REDACTED]
To: jkuntze@ksmart.ca

Fri, Nov 24, 2017 at 11:36 AM

Hey John,

I never got your email for the plan for tiling the Gowron property. Can you send that again.

Cory Kittel

There was no response to
this email.



Cory Kittel <corykittel@gmail.com>

RE: Tile Plan Gowron Property

John Kuntze <jkuntze@ksmart.ca>

Tue, Apr 24, 2018 at 10:39 AM

To: Cory Kittel <corykittel@gmail.com>

Cc: Christine Gawron <christinex01@gmail.com>

Hi Cory

I had discussed with you the tile drainage plans for the Gawron property last November.

Unfortunately I got tied up with other projects last winter and did not have a chance to send you any information about our discussion.

Please note that as outlined in the attached memo Wilmot Township has no direct involvement in the tile drainage work proposed for the Gawron property. The need for a tile outlet through the Kittel property is a private matter that will need to be worked out between neighbours. However, as Township Drainage Superintendent I am willing to help both parties work together for a resolution of a drainage issue.

Please review the attached memo for further information.

I would be pleased to meet with you on-site to review the area in question and to review the memo I have prepared.

This can be an early evening meeting (6pm or later) if that works better for you.

John Kuntze, Drainage Superintendent

Wilmot Township

First email response from
Township Drainage Superintendent
Apr 24, 2018

April 24, 2018

K. SMART ASSOCIATES LTD.
85 McIntyre Dr, Kitchener, ON N2R 1H6
519-748-1199 ext 227 jkuntze@ksmart.ca

File No. 85042

MEMO TO: Corey Kittel and Chris Gawron
FROM: John Kuntze P.Eng.
Wilmot Township Drainage Superintendent
RE: Gawron tile outlet across Kittel property

Background

I first want to note that the Township of Wilmot has no direct involvement in the tile drainage work proposed for the Gawron property. The need for a Gawron tile outlet through the Kittel property is a private matter that will need to be worked out between neighbours.

However, as Township Drainage Superintendent I am willing to help both parties work together for a resolution of a drainage issue.

It is common in rural Ontario that for a small area drainage issue only involving two properties that the farmers would work together on a mutual agreement drain.

The Township of Wilmot would only become involved if the drainage issue cannot be resolved privately by agreement and one of the affected parties would file a petition for a drainage works under the Drainage Act. The Township would then appoint an Engineer to prepare a report for a drain. The report and the Drainage Act process would create a municipal drain under a Township Bylaw. The Township would arrange for the construction of the drain and would be responsible for future maintenance of the drain. However, all costs associated with the drain report, the construction of the drain and the future maintenance of the drain would be assessed to the affected landowners. Examples of municipal drains in the area are the Koch-Leis Drain ditch which goes through the southwest corner of the Gawron farm and the Straus Drain ditch which outlets into Bamberg Creek on the east middle of the Kittel farm.

For the current outlet issue I think a mutual agreement between two owners would be a more practical and economical solution than going through the Drainage Act process to create the drain required.

Existing Drainage

The area in question is a low depressional area on the west boundary of the Kittel farm. Part of this low area extends westerly in to the Gawron farm. The attached 2015 aerial photograph from the GRCA website illustrates the low depressional area in question as this area cannot currently be farmed. A depressional area has no direct outlet for surface drainage and thus will remain wet for long periods of time. Depressional areas can usually not be farmed unless they are tile drained. The natural outlet for the depressional area in question is to the southeast to Bamberg Creek on the Kittel farm.

I believe that the depressional area on the Kittel and Gawron properties had a functional tile outlet in the past.

On the GRCA website one can examine aerial photograph from 2015 back to 2000. On the 2000 and 2006 aerial photograph it appears that most of the depressional area on both farms may have been under cultivation. The 2010 aerial photography shows considerable

Attached memo from Township
Drainage Superintendent Apr
24, 2018

flooding in the low area on the Kittel farm and the 2016 aerial photograph shows the low area on both farms can no longer be cultivated.

At some time since 2006 the tile drain became nonfunctional due to lack of repair. An on-site examination would be required to determine if a tile drain exists and if it requires repair.

Gawron Tile Drainage Plan

The Gawron family plans to systematically tile their farm. A copy of the proposed tile drain plan which has been prepared by a tile drainage contractor is attached. The majority of the Gawron farm tile drainage will outlet into the Koch-Leis Drain ditch in the southwest corner of the farm. However, as shown on the second tile plan attachment approximately 5 acres of the Gawron farm including the low area will require a tile outlet southeasterly through the low area on the Kittel farm and continuing to an outlet into Bamberg Creek. The final attachment shows an enlargement of the location for the proposed tile outlet which I feel may follow the route of a possible old tile drain.

It would be more practical and effective to install a new tile drain rather than repair an old tile drain.

The Kittel farm is not obligated to provide a tile outlet for the Gawron farm or to accept a tile drain constructed by the Gawron farm across the Kittel farm.

However, in my opinion, I see no reason for the Kittel farm to deny the Gawron farm to have a tile outlet across the Kittel farm. I believe such a tile drain would be of benefit to the Kittel farm.

Mutual Agreement Drain

There are two options that can be considered for a tile drain outlet.

Option 1

The Kittel farm could grant permission for the Gawron farm to construct a tile drain across the Kittel farm that would only provide an outlet for the Gawron farm. Though I have not done any detailed design calculations I would estimate that such a tile would be 4" or 6" diameter solid corrugated plastic tubing. This tile would not provide any local drainage or a tile outlet for future drainage of the low area on the Kittel farm.

For this option I would assume that the Kittel farm would not contribute to the cost of the Gawron tile.

Option 2

A tile drain would be constructed across the Kittel farm that would be large enough to provide an outlet for drainage of the low area on the Kittel farm. Again, I am estimating that such a tile would be 6" or 8" diameter perforated corrugated plastic tubing. This tile would provide local drainage and would provide for a tile outlet for additional tile drainage in the low area on the Kittel farm.

For this option I would assume there would be a cost sharing between the Kittel farm and the Gawron farm for the construction of the drain.

Regardless of which option is used, I would recommend that a mutual agreement be completed between the Gawron and Kittel farms outlining details for the drain constructed. This agreement could then be registered on title for the two properties. The Drainage Act makes reference to private mutual agreement drains and a template is available for such an agreement.

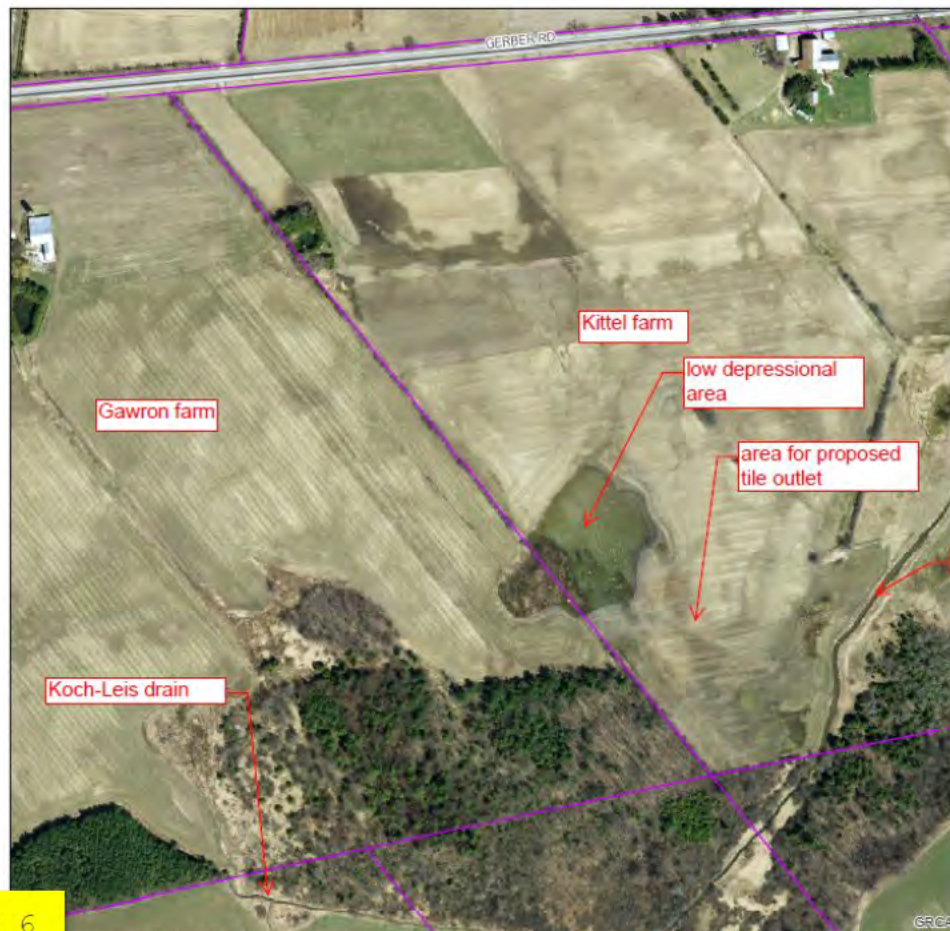


Grand River
Conservation Authority
Date: Apr 24, 2018

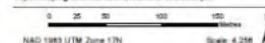


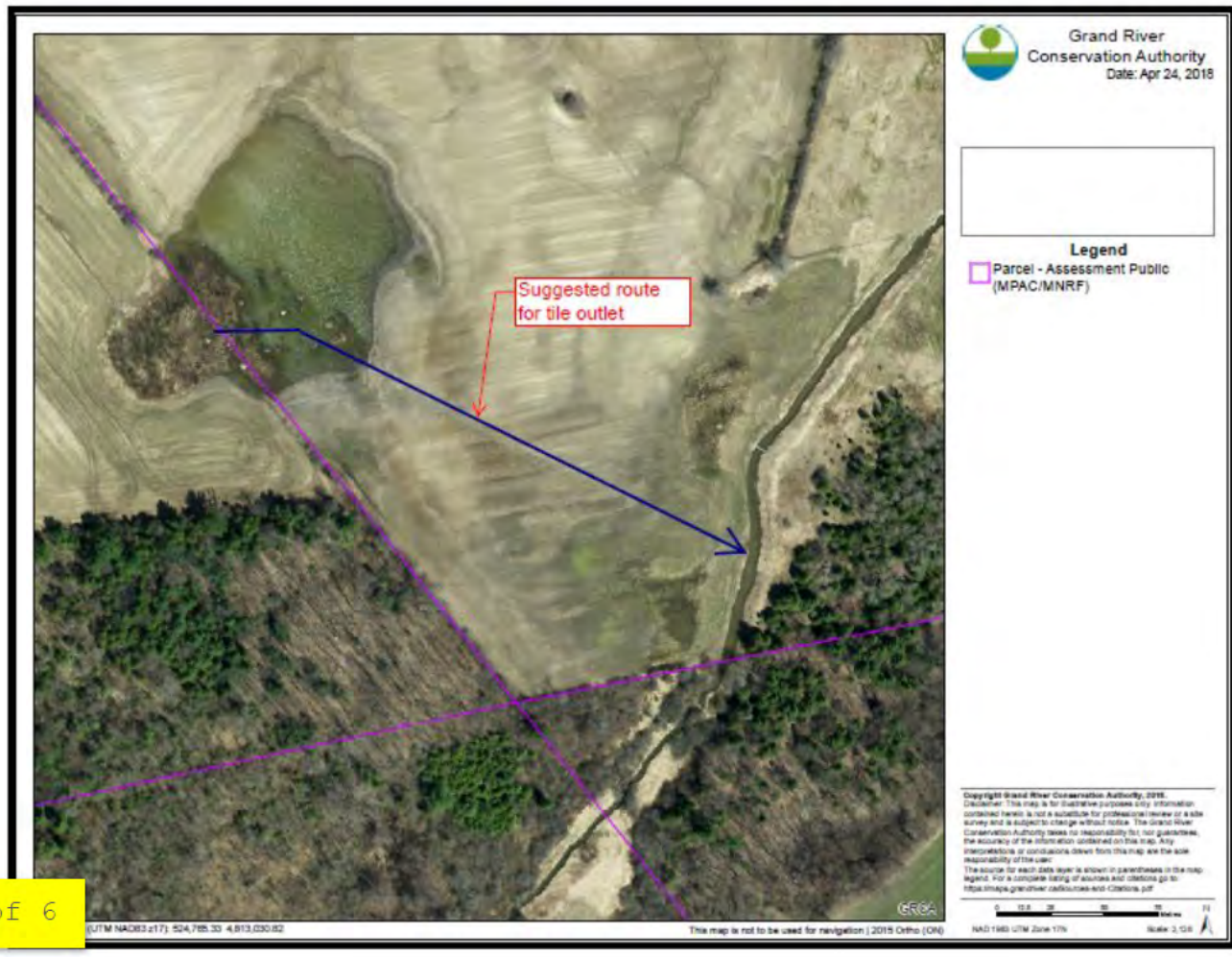
Legend

Parcel - Assessment Public
(MPAC/MNRF)



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The source for each data layer is shown in parentheses in the map legend. For a complete listing of sources and citations go to: <https://maps.grandriver.ca/sources-and-citations.pdf>







Cory Kittel <corykittel@gmail.com>

Re: Tile Plan Gawron Property

Christine Gawron <[REDACTED]>
To: John Kuntze <jkuntze@ksmart.ca>
Cc: [REDACTED]

Tue, Apr 24, 2018 at 5:09 PM

Hi John,

Thank you very much for sending me a copy of your email to Cory Kittel with the attached memo outlining the involvement of Wilmot Township in regards to our tile plan.

I will share this information with my family, and believe they'll agree that it is in our best interests as neighbours with the Kittel's to try to reach a mutually beneficial agreement first, rather than going through the Drainage Act process to determine a resolution. Furthermore, the second option you described as a Mutual Agreement Drain, appears to have the most potential benefit to both our parties.

I would hope the Kittel Family will come to the same conclusion, and be willing to work out an agreement with us?

Much Thanks Again,
Chris Gawron

On Tue, Apr 24, 2018 at 10:39 AM, John Kuntze <jkuntze@ksmart.ca> wrote:

Hi Cory

I had discussed with you the tile drainage plans for the Gawron property last November.

Unfortunately I got tied up with other projects last winter and did not have a chance to send you any information about our discussion.

This was the extent of the communication received from Jananna on this matter, other than a brief call in 2017.

Re: Tile Plan Gowron Property

Cory Kittel [REDACTED]
To: John Kuntze <jkuntze@ksmart.ca>

Fri, Apr 27, 2018 at 11:08 AM

Sounds good

On Fri, Apr 27, 2018 at 11:07 AM John Kuntze <jkuntze@ksmart.ca> wrote:

Hi Cory

I am tied up at the moment.

Can I call you around 1pm.

John

From: Cory Kittel [mailto:[REDACTED]]
Sent: Friday, April 27, 2018 10:45 AM
To: John Kuntze <jkuntze@ksmart.ca>
Subject: Re: Tile Plan Gowron Property

John, can you call me. I want to ask you a few questions on this.

519-635-2679

Applicants attempts to follow-up with the Township/Drainage Superintendent following the memo. There was still no information related to cost, cost-sharing, timelines etc.

The Applicant has no recollection of ever receiving this call back.

Primary Grounds for the Appeal

- The Applicant is hopeful that through this process, the inevitable clutter and distraction will not creep in. This was never a project to clean-out Bamberg Creek and turn it into a municipal drain or improve the Koch-Leis Drain, even though there appears to be some motivation from the Township to want to do so. This was also not about an independent road culvert issue on the west side of the Jananna property. The obvious, apparent and glaring areas of concern are clearly illustrated on the Petition
- Despite the Engineer's assertion that the drainage petition signed by only Jananna Corp. (Jananna) amounts to a valid petition, the Applicant respectfully submitted that it is not a valid petition under the Drainage Act, *infra*, as it does not meet the requirements set out in ss. 4(1), the particulars of which deficiency include:
 - The drainage petition was not signed by a majority in number of the owners of lands in the area;
 - The drainage petition was not signed by the owners of lands in the area representing at least 60 percent of the hectarage in the area; and,
 - The drainage petition was not signed by the Director.

- There is an obvious and defined low lying basin requiring drainage that extends onto both the Jananna property and onto the Applicant's property. The majority of this area requiring drainage lies on the Applicant's property. Even the original drainage petition visually shows the drainage area spans across the two properties. All the mapping applications also show a consistent and defined drainage area, currently and historically, that spans the Applicant's property and the Jananna property;
- Despite this, the Engineer stated that the area requiring drainage was exclusively on the Jananna property. This does not excuse or save the petition from being deficient according to ss. 4(1) of the Drainage Act, *infra*; The Court of the Drainage Referee has jurisdiction to determine the validity of, or to set aside any petition pursuant to s. 106(1)(b) of the Drainage Act;
- Property boundaries should not be preferred over topographical contour features delimiting areas where water lies as a basis for establishing an area requiring drainage pursuant to s. 4 of the Drainage Act. An engineer's opinion as to the area requiring drainage cannot stand, is not beyond review by the Court of the Drainage Referee, and the opinion must be set aside if it is patently wrong. The Applicant did not sign the drainage petition so the sole signature on it by Jananna did not constitute a majority of the of owners of the area requiring drainage.

- Another reason for the application is that a separate new branch of the drain was added to the project exclusively by the Drainage Superintendent and Engineer without due authority. The new branch of the proposed drain is called the Jananna West Branch. It is located in a separate dissimilar drainage area that is far from the original petitioned drain, on the opposite side of the Jananna farm, in a completely separate watershed boundary;
- The Jananna West Branch was created to deal with a road culvert. This added drain was not contemplated on the original petition, was not part of the on-site meeting plan provided to invitees and does not have its own petition. The Engineer failed to call a second on-site meeting when new areas requiring drainage were added. This is also the case for the later added Koch-Leis Drain improvement that was added, not out of necessity, but out of opportunity with no petition, and no on-site meeting.
- It is respectfully submitted that the Drainage Act, *infra*, does not authorize a municipality to pass a by-law for the construction of a drainage system, such as the proposed Bamberg Creek, Jananna Drain, and Koch-Leis Drains which differs substantially in size and cost from the drain petitioned.

Other Considerations

- It must be taken into consideration that very little evidence has been provided to suggest that any significant hardships have been experienced exclusively by Jananna due to a lack of drainage or surface water or a perpetual standing water problem; and absolutely nothing has been quantified that justifies the cost.
- Jananna already have a new systemic field tiling system in place that covers the vast majority of their farm that is clearly working, including a new drain inlet in a location where the Engineer is suggesting one be placed. All their farmable land is being farmed by their land renter.
- No evidence of benefit, return on investment and no payback has been provided or proven and that would come close to the projected cost of this project which is creeping towards half a million dollars. Proceeding on this basis alone would be considered negligent, extremely careless and void of any common sense.

Timeline: On-Site Meeting

- The first and only on-site meeting was held September 22, 2021 on the Jananna property.
- Clearly this project didn't start off on the right foot for the Applicant. He only became aware of the proposed Jananna Drain after receiving an on-site meeting notice in the mail after the meeting had already concluded. Therefore the Applicant was not even aware of the meeting and unable to attend.
- The Applicant promptly called the Engineer on the afternoon of September 22 , 2021.
- The Applicant called the Engineer again on September 27, 2021 and was able to reach Stephen Brickman. With little to no information to go on other than what was in the initial letter, the Applicant proceeded to ask questions and look for reassurances he would receive more information soon and be part of the process since he was not aware of the on-site meeting, therefore not able to attend. The Engineer provided no additional information but reassured the Applicant that he would be involved in the information gathering and planning process shortly. This turned out not to be the case.
- Further attempts were made by the Applicant to engage the Engineer following the on-site meeting and participate in the process. Not hearing back from the Engineer in the following weeks, a follow-up email was sent to the Engineer on October 25, 2021 and again on November 8, 2021.

RE: Jananna Municipal Drain Review

Cory Kittel [REDACTED]
To: stephen.brickman@headwayeng.ca

Mon, Oct 25, 2021 at 11:31 AM

Hi Stephen,

Thanks for taking the time to talk about this issue with me. I still find myself missing many of the details. Here are my main questions...

1. What are the problems we are trying to solve?
2. Cost/benefit analysis - is the work and expense worth it?
3. Who is it benefiting? To what benefit?
4. Perhaps there are simple solutions that are being overlooked. At one point a year or two ago John Kuntzee hired excavators at our creek trying to solve flow issues - big expenses that made no difference. The problem was sticks. A build up occurred at our bridge that just needed some TLC. Sometimes people miss the obvious things right in front of them.

Cory Kittel
[REDACTED]

See Applicant's AOD, Tab 016

The Engineer did not respond to this email.

Re: Jananna Municipal Drain Review

Cory Kittel [REDACTED]
To: stephen.brickman@headwayeng.ca

Mon, Nov 8, 2021 at 1:30 PM

Just checking back to make sure you got this. Let me know.

Thanks

On Mon, Oct 25, 2021 at 11:31 AM Cory Kittel [REDACTED] wrote:
Hi Stephen,

Thanks for taking the time to talk about this issue with me. I still find myself missing many of the details. Here are my main questions...

1. What are the problems we are trying to solve?
2. Cost/benefit analysis - is the work and expense worth it?
3. Who is it benefiting? To what benefit?
4. Perhaps there are simple solutions that are being overlooked. At one point a year or two ago John Kuntzee hired excavators at our creek trying to solve flow issues - big expenses that made no difference. The problem was sticks. A build up occurred at our bridge that just needed some TLC. Sometimes people miss the obvious things right in front of them.

Cory Kittel
[REDACTED]

See Applicant's AOD, Tab 016

The Engineer finally did respond to this email.

RE: Jananna Municipal Drain Review

Stephen Brickman <stephen.brickman@headwayeng.ca>

Mon, Nov 8, 2021 at 1:59 PM

To: Cory Kittel [REDACTED]

Hey Cory,

We did get your email – Thanks for providing your comments/concerns/questions! And sorry for not acknowledging them earlier.

As we move forward, we'll be looking to you (and others) to help us sculpt out the best solution. We'll definitely be staying in touch, and we'll be able to better answer the questions below.

Thanks Cory, and keep in touch!

Stephen Brickman, P.Eng

Project Manager/Engineer | Headway Engineering

headwayeng.ca

P: 226 243 6614, Ext. 1

E: Stephen.Brickman@headwayeng.ca

This response shows further reassurances from the Engineer that the Applicant (and others) would have an opportunity to provide input and help "*sculpt out the best solution*". Unfortunately this opportunity was never provided.

With the reassurance from the Engineer that he would "*definitely be staying in touch*", the Applicant patiently waited for the opportunity that never came. The Applicant and others would not hear back from the Engineer until after the plan was already created. There was no engagement until the first Public Meeting where the plan was revealed.

Timeline: First Public Information Meeting

- A notice arrived from the Engineer via mail on September 22, 2022 detailing a plan to host a public information meeting on September 29, 2022.
- At this point the Applicant was shocked that such a meeting was being scheduled without having his basic questions answered, without having been offered an opportunity to be part of the pre-plan process and not being able to provide any input or insight whatsoever. How can this be when the Applicant is one of the largest impacted landowners and potential financiers of a project that he had absolutely no input on.
- After receiving this notice the Applicant sent a follow-up email to the Engineer on September 22, 2022.

Re: Jananna Municipal Drain Review

Cory Kittel [REDACTED]

Thu, Sep 22, 2022 at 2:11 PM

To: stephen.brickman@headwayeng.ca, adam.hall@headwayeng.ca

Hi,

I'm still looking for the answers to the below questions. For the record, I never did hear back from anyone on this. I will say the information to-date has been limited to basically non-existent. I've been tracking this parcel for close to a year now and have recorded drone footage that does not indicate any issues.

On Mon, Oct 25, 2021 at 11:31 AM Cory Kittel <[REDACTED]> wrote:

Hi Stephen,

Thanks for taking the time to talk about this issue with me. I still find myself missing many of the details. Here are my main questions...

1. What are the problems we are trying to solve?
2. Cost/benefit analysis - is the work and expense worth it?
3. Who is it benefiting? To what benefit?
4. Perhaps there are simple solutions that are being overlooked. At one point a year or two ago John Kuntzee hired excavators at our creek trying to solve flow issues - big expenses that made no difference. The problem was sticks. A build up occurred at our bridge that just needed some TLC. Sometimes people miss the obvious things right in front of them.

Cory Kittel
[REDACTED]

See Applicant's AOD, Tab 016

The Engineer did respond to this email.

RE: Jananna Municipal Drain Review

1 message

Stephen Brickman <stephen.brickman@headwayeng.ca>

Thu, Sep 22, 2022 at 4:23 PM

To: Cory Kitter <[REDACTED]>
Cc: Adam Hall <adam.hall@headwayeng.ca>

Hi Cory,

Thanks for your email.

These questions, and questions like it are exactly what we intend to address at next week's public meeting as we're sure others will have questions too. The following is a quick outline for next week.

- Introductions
- A recap of how we (Headway) became involved
- Our findings
 - Watershed area, and makoup
 - Our survey info (photos, Bamberg Creek, crossings, etc.)
 - Agency requirements
- Our proposed solution
 - The engineering dwgs and walk through of all the info on the dwgs
 - Plans
 - Profiles
 - Details
- Questions relating to design details (your questions No. 1, 3, and 4)
- Discussion on the costs of the project
- Discussion on the assessment of costs
 - Instruments of assessment available under the Drainage Act
 - What the instruments mean
 - How to apply them
 - And a detailed look at the assessment schedules.
- Questions relating to the costs (eg your questions No. 2 and 3)
- Drainage Act process moving forward
 - Next Steps
 - Timelines
 - Etc.
- Questions relating to Drainage Act process, or anything.

Email part 1 of 2

Continued on the next slide...

You didn't hear back from anybody yet regarding these questions because we haven't finished the necessary materials to address everything. We're close, but not all the way there (we will be next week). The main purpose of next week's meeting is to present all this material that we've been working on, and to receive feedback. Everything will be in draft format, and will not be final, so we want to receive input prior to finalizing everything.

I hope that explains these next few steps, and what to expect next week and we hope to see you there.

Thanks again for your email and Take Care Cory.

Stephen Brickman, P.Eng

Project Manager/Engineer | Headway Engineering

headwayeng.ca

P: 226 243 6614, Ext. 1

E: Stephen.Brickman@headwayeng.ca

As you can see the Engineer's plan was to present the proposed solution at this meeting. How can this be possible when absolutely none of the impacted landowners have been contacted or involved. At this point the Applicant still has no insight into what the actual issues are and none of his questions have been answered. This was a process conducted with blinders on. With frustration mounting, the Applicant sent a follow-up to this email.

Re: Jananna Municipal Drain Review

Cory Kittel [REDACTED]

Thu, Sep 22, 2022 at 4:46 PM

To: Stephen Brickman <stephen.brickman@headwayeng.ca>

Cc: Adam Hall <adam.hall@headwayeng.ca>

I really can't fathom how the project is even this far along when no one has been consulted or talked to yet. My most basic questions have been ignored. My neighbours have no idea what's going on. Why spend the money on a problem when perhaps a problem doesn't exist. Clearly there are some conflicting interests here. This is an individual matter so I'm not sure what I have to do with this? Am I supposed to take time off work for this meeting scheduled for 2pm on a weekday? It's like you don't want anyone to attend.

On Thu, Sep 22, 2022 at 4:23 PM Stephen Brickman <stephen.brickman@headwayeng.ca> wrote:

Hi Cory,

Thanks for your email.

These questions, and questions like it are exactly what we intend to address at next week's public meeting as we're sure others will have questions too. The following is a quick outline for next week.

- Introductions
- A recap of how we (Headway) became involved
- Our findings
 - Watershed area, and makeup
 - Our survey info (photos, Bamberg Creek crossings, etc.)

This is the Applicant's reply. The Engineer did not respond to this follow-up email.

- The first public information meeting was held on September 29, 2022 at 2pm in the afternoon on a Thursday.
- It was mostly attended by members of Jananna Corp (Petitioner). Of the 12 attendees, 7 were part of Jananna Corp.
- A full plan, detailed drawings and costs were presented at this meeting.
- This was the Applicant's and other non-petitioner landowners first and only opportunity to receive information, provide information and ask questions.
- The proposed cost and scope of the project left everyone in shock considering the scale of the project increased considerably from the plan mailed out for the on-site meeting.
- The Applicant proceeded to ask questions as to whether the need outweighed the costs and if there was a business case for the proposed drainage works. A response to this question was not received. The Applicant also asked for more details regarding benefit, that was glossed over as well.
- Very little evidence was provided other than a few photos with very little context behind them.
- Some neighbours raised some concerns with the findings being presented. The Engineer reported that water levels in Bamberg Creek were too high and that all the tiles were underwater, but one of the landowners told the Engineer that a beaver was active during the one day that the Engineer firm was collecting field data. The beaver has since been removed and is no longer an issue. This fact went mostly ignored by the Engineer. What's interesting is that the Engineer is now using that information as a way to justify the project, so the Township can 'manage' the beaver problem.
- Some of the other images presented were misleading because it showed one moment in time with no context as to the conditions or weather patterns leading up to those images.
- Many of the non-petitioner landowners in attendance communicated that none of the proposed works will benefit them in any way.

Engineer photo Nov 24, 2021



Applicant photo Oct 6, 2022

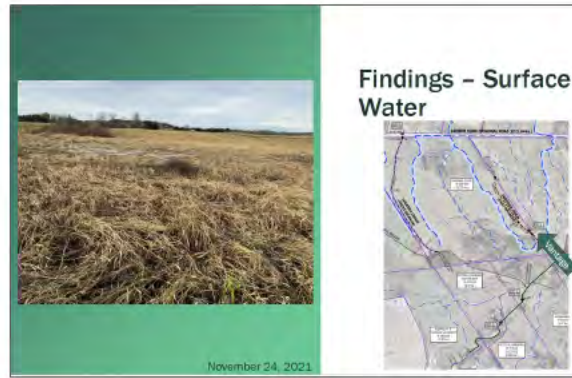


Bamberg Creek - this is an example of how some of the images at the meeting could have been misleading and taken out of context.

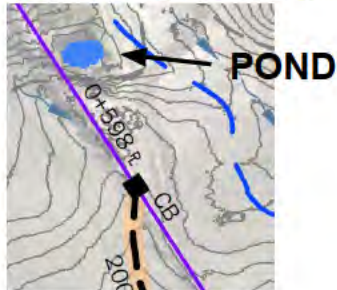
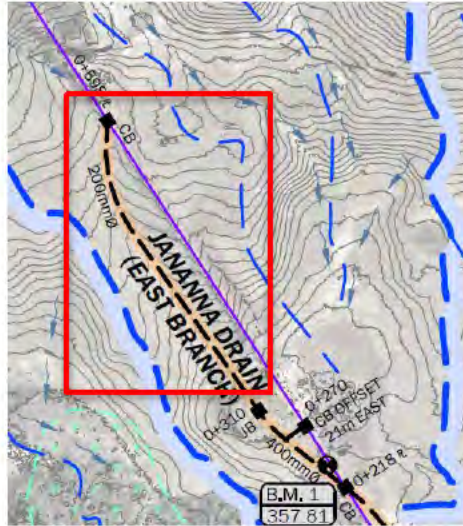
Highly visible working drainage tile not underwater



- What's also interesting is that most of the images in the Engineer's presentation showing 'hardships' were of the Applicant's property. Very few images showed any hardships experienced by Jananna.



Engineer's Work Area Plan



- During this meeting one of the issues that came to light for the first time for the Applicant was water potentially coming from a pond that is situated on the Applicant's property close to the property line. It was suggested some of this water is potentially making its way onto Jananna's property. The Engineer provided no evidence of this at the meeting, but it's the east side "surface flow" that the Engineer is referring to.
- There is a section of the proposed Jananna Drain East Branch that starts north of the southeast low spot drainage basin. This section was added, as confirmed by the Engineer at this meeting, to deal specifically with the potential pond issue.
- The Applicant, who just recently moved to the property, was never ever made aware of this potential issue. Not from Jananna, not from the Drainage Superintendent, not from the Engineer... no one ever. Not during the entire process did anyone think to discuss this with the pond owner. The Applicant reached out to the Engineer ahead of this meeting multiple times to learn more about the issues, but never received any answers and sometimes no response at all. It only came to light during this meeting when the plans and costs had already been dictated.
- If there is a problem, how is someone supposed to fix a problem when they are not aware of the problem? Shouldn't the pond owner be given the opportunity and time to fix the problem if one exists?

- This was the Applicant's first time really meeting the members of Jananna Corp., other than one or two very brief interactions years ago. It was definitely the first opportunity to speak with any of them in-person.
- Any pond issue would be an inherited one for the Applicant. During the meeting the Applicant could see it was a contentious issue with the Jananna members. The Applicant made them aware that it was his first time learning of any potential issue. The Applicant also made it known that if there is an issue with the pond that it could be fixed and made the commitment to fix it.
- The proposed branch extension north is only a band-aid solution to catch whatever surface water it can. It doesn't really fix the problem. This was expressed by the Applicant to the Engineer at this meeting. For the massive expense this will incur, any kind of 'band-aid' is a lazy attempt at a solution. The real solution is to fix the problem.
- The Applicant attempted to open up communication and discuss the issues further with Jananna following the meeting, but they were not open to it, instead the response the Applicant received from one of the Jananna members was, *"Start saving your pennies"*.
- The Drainage Superintendent was in attendance and told the attendees to direct all their questions to the Engineer going forward. Both the Drainage Superintendent and Engineer made it a fact to tell the attendees that the plan was a good one and that any appeals would only add to the cost of the project, which felt like an attempt to discourage future appeals.

Quick Chat

Cory Kittel [REDACTED]

Wed, Oct 5, 2022 at 1:50 PM

To: [REDACTED]

Hi Christine,

It really was good to see and chat with everyone at the meeting last week. It was my first opportunity to really see and speak with anyone in person which is always the best. I feel a bit in the dark. I heard a lot and I'm just trying to listen, learn more and really understand. I just know good open communication is going to lead to the best result for everyone. I think we have to try especially with the surrounding community involved. You're not going to get any arguing or confrontation from me. I wanted to give everyone a bit of time since the meeting, but I have a few ideas and thoughts I wanted to run by you, I'm also open to taking a quick tour to see where some of the issues might be. I don't think I have your phone number, but would you be open for just a quick phone chat today or tomorrow? Here is my contact info, you can call me here anytime 519-635-2679.

Cory Kittel

See Applicant's AOD, Tab 018

Following the public meeting another attempt was made by the Applicant to open up the channels of communication with Jananna via email. No response was received to this email. The Applicant also made attempts to reach out via phone to the contacts he was able to find. One voicemail was left with Lucy (Jananna), contact was made with Irene (Jananna) and eventually the Applicant did reach Christine (Jananna) via phone. The same message and sentiment was given over the phone. Any interest to communicate further was not reciprocated. The general response was to direct communication to the Township.

Timeline: Second Public Information Meeting

- A second Public Meeting (but no on-site meeting) was held November 24, 2022 specifically for the Koch-Leis Drain improvements, which was a late addition to this project, added not as requirement, but what seems to be an opportunistic attempt to attach this work to the greater project. Again, the meeting was attended mainly by Jananna (6 out of 12 attendees); and again, the plan and costs were already prepared ahead of this meeting with no consultation from the landowners.
- In an email for John Kuntze, Drainage Superintendent dated April 3, 2023 he stated:

At the September 29 meeting the Engineer presented recommended work to deepen Bamberg Creek to provide an adequate outlet for the proposed Jananna Drain. It was apparent that the deepening of Bamberg Creek was also going to provide an improved outlet for the Koch-Leis Drain. At the September 29 meeting I requested the Engineer to investigate an improvement to the grade of the Koch-Leis Drain and include such in the current report. This action is also required so that there is an up-to-date profile available for future maintenance of the Koch-Leis Drain as the 1950 Koch-Leis Drain report profile would no longer be applicable.

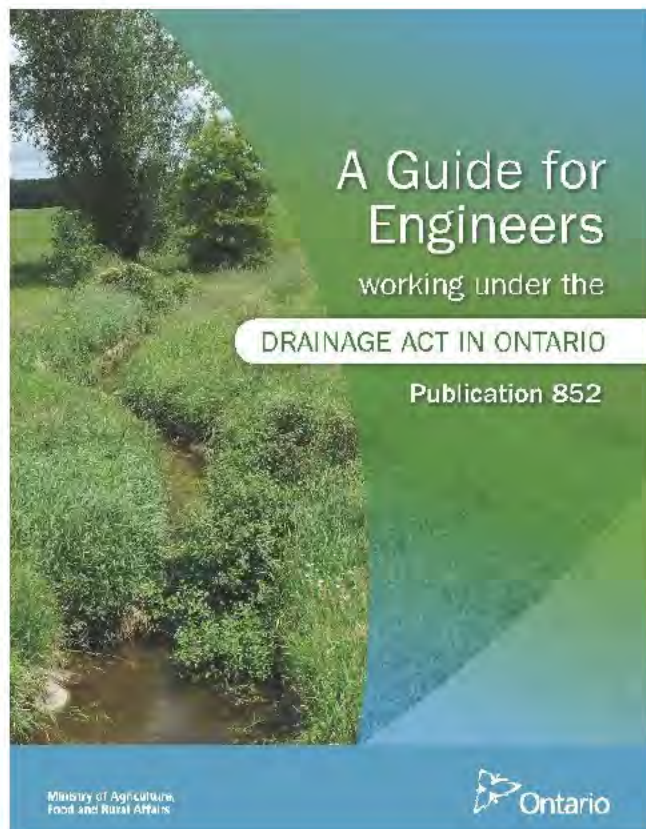
See Applicant's AOD, Tab 022

Timeline: Post Public Information Meeting

- The Applicant took it upon himself to reach out to each landowner and poll them on their engagement experience. The results can be found in the table below:

Assessed Non-Petitioner Landowners in the Watershed Community	Drain(s) Assessed	Was Notified of an On-Site Meeting by the Engineer?	Was Contacted Following the On-Site Meeting and Provided an Opportunity for Input Prior to the Plan Being Produced?
Cory & Kirby Kittel	East Branch/ Bamberg Creek	Yes (but only after the meeting was over)	No
Natalee Ridgeway & Justin Miller	East Branch/ Bamberg Creek	Yes	No
Ronald & Rosemary McCormick	East Branch/ Bamberg Creek	Yes	No
Oleg & Elena Borissova	Bamberg Creek	No	No
Peter & Dagmar Schnieder	Koch-Leis/ Bamberg Creek	No	No
Peter & Barbar Wurtele	Bamberg Creek	No	No
David & Sherri Homanchuk	Koch-Leis/ Bamberg Creek	No	No
Kenneth & Catherine Heintz	Koch-Leis/ Bamberg Creek	No	No
Roadside Farm Inc.	Koch-Leis/ Bamberg Creek	No	No
David & Eva Cressman	Koch-Leis/ Bamberg Creek	No	No
Ladislau & Lauretta Bauer	West Branch/ Bamberg Creek	No	No
264171 Holding Ltd.	West Branch/ Bamberg Creek	No	No
Jeffrey Furtado & Paige Stewart	Koch-Leis/ Bamberg Creek	No	No
Robert & Anne Jantzi	Koch-Leis/ Bamberg Creek	No	No
Bamway Industries	Koch-Leis/ Bamberg Creek	No	No
Jammon & Elvina Bauman	Koch-Leis/ Bamberg Creek	No	No

- Virtually no one in the watershed community was solicited for input or provided the opportunity to engage prior to the plan being produced.
- The Drainage Act, 1990 requires that an on-site meeting be held for all construction (Section 4) and/or improvement (Section 78) projects (Section 9).
- In the Engineer's Report it came to light that only three non-petitioner landowners assessed under the 'Jananna East Branch' were invited to this one and only on-site meeting. Only one non-petitioner landowner attended. During the meeting the one landowner who did show up said they wanted no part of this project.
- With a public engagement process already under heavy criticism, the Engineer made attempts to walkthrough his 'thorough engagement process' at the Meeting to Consider on June 26, 2023. The landowners he was supposed to engaged with disagreed. Any opportunity for engagement came way too late; and at a point where the engagement was mostly question handling due to the lack of information and complaints.
- Assessed landowners of the new Jananna West Branch and Bamberg Creek Drains were not afforded an on-site meeting. An on-site meeting was also not held for the later added Koch-Leis Drain improvement, which was an opportunistic addition added at the discretion of the Engineer and Drainage Superintendent.



See Applicant's AOD, Tab 050

4.1 Introduction

The *Drainage Act, 1990* requires that an on-site meeting be held for all construction (Section 4) and/or improvement (Section 78) projects (Section 9) (Figure A4–1). There are two main purposes for the meeting:

- to provide a forum for property owners and agencies to present the goals, objectives and constraints of the drainage project to the engineer
- to confirm the authority
 - of a drainage project initiated by petition (Section 4), the engineer must define the area requiring drainage and evaluate the validity of the petition
 - of a drainage improvement project (Section 78(1.1)), the engineer must verify that the proposed improvement to an existing drain is authorized

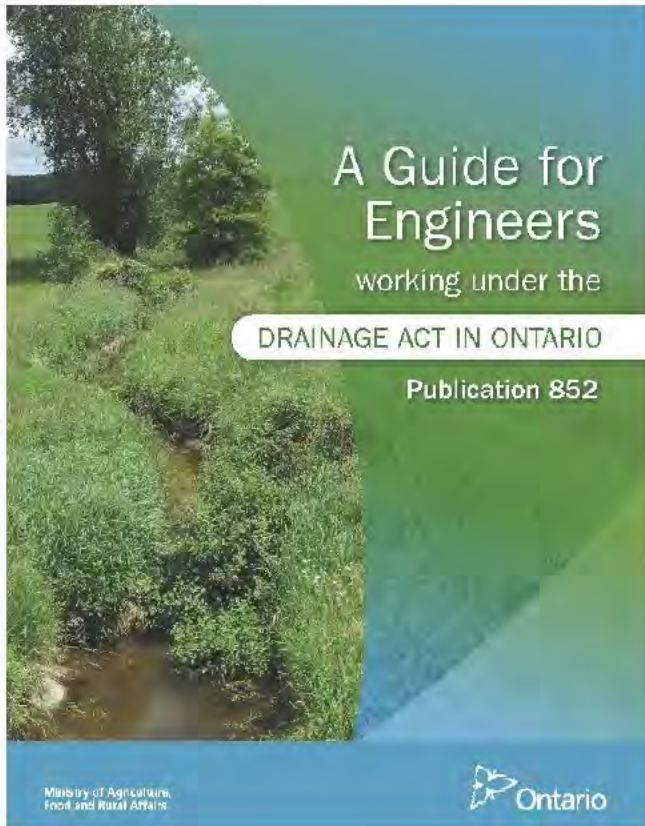


Figure A4–1. Conducting an on-site meeting

4.2 Notification of an On-Site Meeting (Section 9(1))

Take the following steps in advance of the on-site meeting, to prepare the meeting notification.

- a) Get the municipal assessment roll and parcel map data for:
 - the area requiring drainage identified by the petition and for neighbouring properties, in the case of a drainage project initiated by petition (Section 4)
 - the properties affected by the proposed drain improvement project, in the case of a drainage improvement project (Section 78) (usually all properties in the watershed are shown in a previous drainage report)
- b) For each property, compare the names of the owners on the petition to the names of the owners listed on the assessment roll. Verify that property owners' names on the petition accurately represent the property ownership (Section 4).
- c) Prepare a list of persons invited to attend the on-site meeting and submit it to the municipal clerk. This should include:
 - owners of properties in the area that requires drainage, as described by the petition (Section 4), or of properties affected by the proposed drain improvement project (Section 78)



- public utilities that may be affected by the proposed project
- agencies that may be affected by the proposed project
- upstream and downstream owners that the engineer believes may be affected by the project
- the drainage superintendent, to assist in liaising with the property owners

Consider inviting members of the council and the road superintendent to attend the meeting.

- d) In consultation with the municipality, select a date and time for the on-site meeting, ensuring that the date allows for a minimum of seven (7) days' advance notice.
- e) Select a location for the site meeting that is in the vicinity of the proposed drainage project and that can safely host a group and their vehicles.
- f) Confirm the clerk has prepared and sent out the on-site meeting notice, in the form prescribed in O. Reg. 381(3). Go to the Central Forms Repository (www.forms.ssb.gov.on.ca) and search for "notice of on-site meeting for construction."

4.3 Preparing for the On-Site Meeting (Section 9(2))

The following is a list of activities to consider prior to conducting a productive on-site meeting.

- Obtain and review the following information:
 - the most recent aerial photography
 - topographical mapping
 - the municipality's drainage map
 - area soils data and geotechnical studies
 - other drainage reports, land use planning documents and/or transportation studies
 - existing drain reports and/or by-laws in the area
 - information from an earlier project scoping meeting
- Conduct a windshield inspection to look at physical features in the watershed (Figure A4-2).



Figure A4-2. A windshield survey with a map on the dashboard.

Source: Owen Brook, Guelph, Ontario.

- Prepare a sketch or use an aerial map to show:
 - the potential areas to be drained, as identified on the petition, or the area requiring improvement, as identified on the improvement request
 - total watershed area and affected adjacent lands
 - property parcels with names of affected owners
 - existing drains (e.g., municipal, private, award, mutual agreement) in the area
 - wetlands and other sensitive features
 - public utilities
- Get local background information from the municipality's drainage superintendent about the watershed.
- Consult with regulatory agencies on potential requirements from other legislation (Part C), especially if it pertains to wetlands (Part B, Chapter 8 Wetlands and Water Retention).
- Consult with the road authorities and/or public utilities.

GUIDELINE

**Services of the
Engineer Acting Under
the Drainage Act**

1998

Published by
Association of Professional Engineers of Ontario

“Each owner or authority should be interviewed and if any are not present but are deemed to be affected because of work being done on their land, or because of other anticipated concerns, the engineer should attempt to contact them.”

Source: GUIDELINE Services of the Engineer Acting Under the Drainage Act, published by the Association of Professional Engineers of Ontario

GUIDELINE

**Services of the
Engineer Acting Under
the Drainage Act**

1998

Published by
Association of Professional Engineers of Ontario

“In accordance with section 9(1) the engineer shall have the clerk of the municipality notify all owners in the area requiring drainage of the time and place of the site meeting”

Source: GUIDELINE Services of the Engineer Acting Under the Drainage Act, published by the Association of Professional Engineers of Ontario

Timeline: Watershed Community Counter Petition

- January 2023 a counter petition was started stating that *"The undersigned shows a collective opposition of the Jananna Municipal Drain project based on the following..*

- We do not see the need for such a project*
- We do not see the benefit individually or collectively of this project*
- We do not want to participate in the cost involved with this project"*

- It was signed by all the non-petitioner landowners and submitted to the Township prior to the Meeting to Consider

See Applicant's AOD, Tab 062

Petition Against Jananna Municipal Drain

The undersigned show collective opposition of the Jananna Municipal Drain project based on the following:

We do not see the need for such a project.
We do not see the benefit individually or collectively of this project.
We do not want to participate in the cost involved with this project.

Printed Name	Signature	Address	Date
Ken Heintz		4320 Barlett Rd	Jan 21/23
Cathy Heintz		3332 Barlett Rd	Jan 21/23
Peter Schneider		3346 Barlett Rd	Jan 21/23
Dagmar Schneider		3346 Barlett Rd	Jan 21/23
Wes Berisso		7025 Arroyo Rd	Jan 21/23
Cory Kittel		1010 Garber Rd	Jan 21/23
Kurtis Bauer		1181 Garber Rd	Jan 21/23
Kathy Kottman		1010 Garber Rd	Jan 21/23
Elena Borissow		1010 Barlett Rd	Jan 21/23
Jack Cressman		1228 Garber	Jan 21/23

Printed Name	Signature	Address	Date
JUSTIN MILLER		1021 GLENDA RD	01/30/23
Natalie Miller		1021 GLENDA RD	01/30/23
PETER WATKINS		21 BURNING OAK RD	01/30/23
BARBARA WATKINS		21 BURNING OAK RD	01/30/23
JEFF FARMER		1011 GLENDA RD	02/01/23
PAIGE FARMER		1011 GLENDA RD	02/01/23
BRIAN MURPHY		1011 GLENDA RD	02/01/23
JOHN MURPHY		1011 GLENDA RD	02/01/23
STERRI HOMANICHUK		2170 BARLETT RD	02/01/23
DAVE HOMANICHUK		2170 BARLETT RD	02/01/23
DAVID CRESSMAN		1021 GLENDA RD	02/01/23
JOHN CRESSMAN		1021 GLENDA RD	02/01/23

Printed Name	Signature	Address	Date
DAVID HANSHAW		1021 GLENDA RD	02/01/23

Timeline: Exploring Alternatives

- Following the Public Information Meeting where the Engineer's plan revealed no other options, and costs that outweighed any kind of suggested benefit, an attempt was made by the Applicant to explore Alternatives.
- Wanting to get a few different opinions, the Applicant talked to a few drainage professionals. A farm drainage survey and design professional with 40+ years experience and a professional and reputable drainage contractor with 50+ years of experience.
- The Applicant had a survey of his own fields completed, on November 9, 2022, while exploring these options. Site visits were conducted, options were explored and estimates were gathered. The contractors that the Applicant spoke with were optimistic that a solution could be found at a cost more commensurate to what the benefits derived would be. These options also did not require creek reconstruction.
- Ultimately the Applicant explored re-construction of his pond and the installation of a new private field tile from the general pond area down through the low-lying basin area on the southeast side outletting into Bamberg creek. This would address two concerns at once.

- This solution would be more effective - fixes any potential problems, does not band-aid it
- It would be quicker to execute and install
- Would be professionally designed and installed
- A common sense solution and a win-win for everyone
- Finally, as a gesture of goodwill and not having to burden the surrounding landowners with the cost, the Applicant offered to cover the cost and give Jananna an option to connect to this solution at no cost to them if they chose to do so.
- Through this process and working with drainage designers, on January 17, 2024, the Applicant came into possession of the systematic field tile plan that Jananna recently installed in their fields. It revealed a system more extensive than originally thought.
- This new information was shared with the Engineer during a one-on-one meeting on February 9, 2023 and with the Drainage Superintendent in an email dated March 27, 2023.



R.R. #4 ELMIRA, ONT. N3B 2Z3

519-669-2256

JOB ESTIMATE

NAME Cory Kittle

PHONE

ADDRESS 1222 Gerber Rd

LOT 09 CONC. 03 TWP 41 N 30 W 4

STARTING DATE

Nº OF ACRES TO BE DRAINED

A job worth doing is worth doing right

QUANTITY	SIZE	DESCRIPTION	AMOUNT
16,000	4"	Filter pipe @ .61 + install @ .24	13,800.00
1025	6"	Filter pipe @ 1.50 + " " @ .30	1,935.00
100	8"	" " @ 2.70 + " " @ 1.05	375.00
200	10"	" " @ 4.20 + " " @ 1.15	1,070.00
700	12"	Filter pipe @ 5.70 + " " @ 1.25	4,865.00
1	12"	outlet pipe @ 210.00	210.00
2	10"	T's @ 65.00	130.00
37	-	connections @ 45.00	1,480.00
1	6"	inlet @ 175.00	175.00
1	18"	catchbasin @ 500.00	500.00
6.5	hrs	hydro @ 112.00 (catchbasin and 12" install)	728.00
1075	6"	filter pipe @ 1.80 (for drain up to road outlet)	1,935.00
1	-	move and setup @	1,000.00
Subtotal			28,003.00

REMARKS If you decide not to do drain to road and only install 4" at bottom end, would be approx \$2,400.00 off

CUSTOMER

ESTIMATED BY [Signature]

DATE Jan 9/22

THIS ESTIMATE IS FOR COMPLETING THE JOB AS DESCRIBED ABOVE. IT IS BASED ON OUR EVALUATION AND DOES NOT INCLUDE MATERIAL PRICE INCREASES OR ADDITIONAL LABOUR AND MATERIALS WHICH MAY BE REQUIRED SHOULD UNFORESEEN PROBLEMS OR ADVERSE CONDITIONS ARISE AFTER THE WORK HAS STARTED.

Footage required per acre
20 ft. = 2205
40 ft. = 1470
60 ft. = 1102
80 ft. = 900
100 ft. = 750
120 ft. = 650

c03 black b 108 w/mot
Pipe



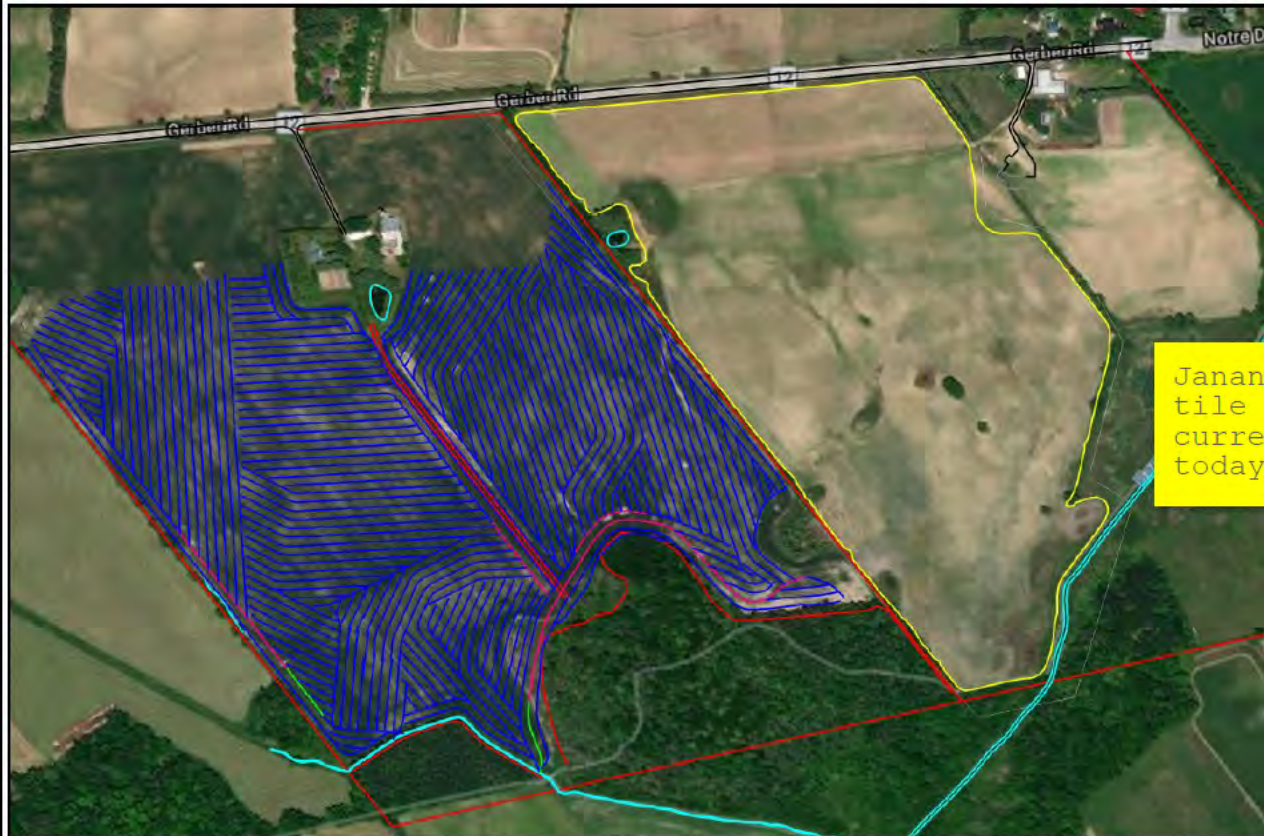
Client: Kitch Cory
Farm: 1222 Gerber Rd Waterloo
Estate: c03 black b 108 w/mot
Name: (Drainage - Planned)

4" in post	10024.00 ft
4" in tile	37054.00 ft
6" in tile	1000.00 ft
8" in tile	274.27 ft
10" in tile	1004.00 ft
12" in tile	241.10 ft
14" in tile	71.22 ft
16" in tile	404.01 ft
18" in tile	229.12 ft
20" in tile	694.00 ft
22" in tile	6.31 ft



Trintite

Survey work, exploring potential field tile design options for the Applicant's farm with potential benefits to Jananna.



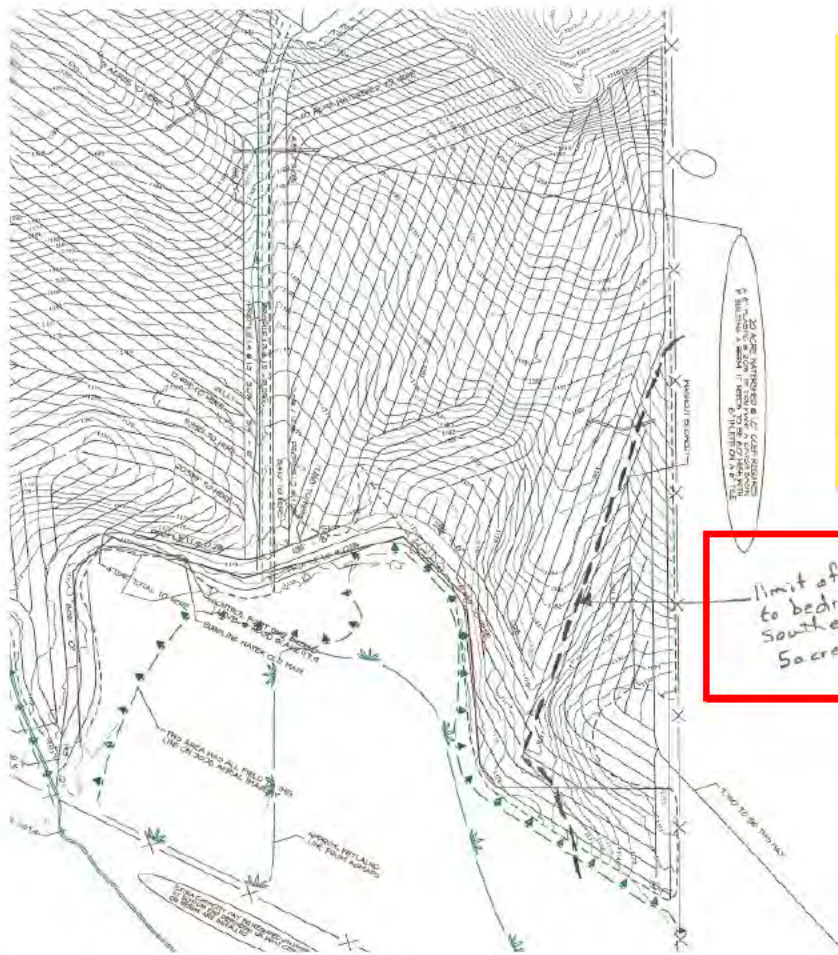
- 2L4
- 2M1
- 2M6
- 2M8
- BUILDING
- LINE_BOUNDARY
- LINE_DITCH
- LINE_FENCE
- LINE_ROAD

Jananna systematic field tile design. This is currently in the ground today and working.



Timeline: One-on-One Meeting with Engineer

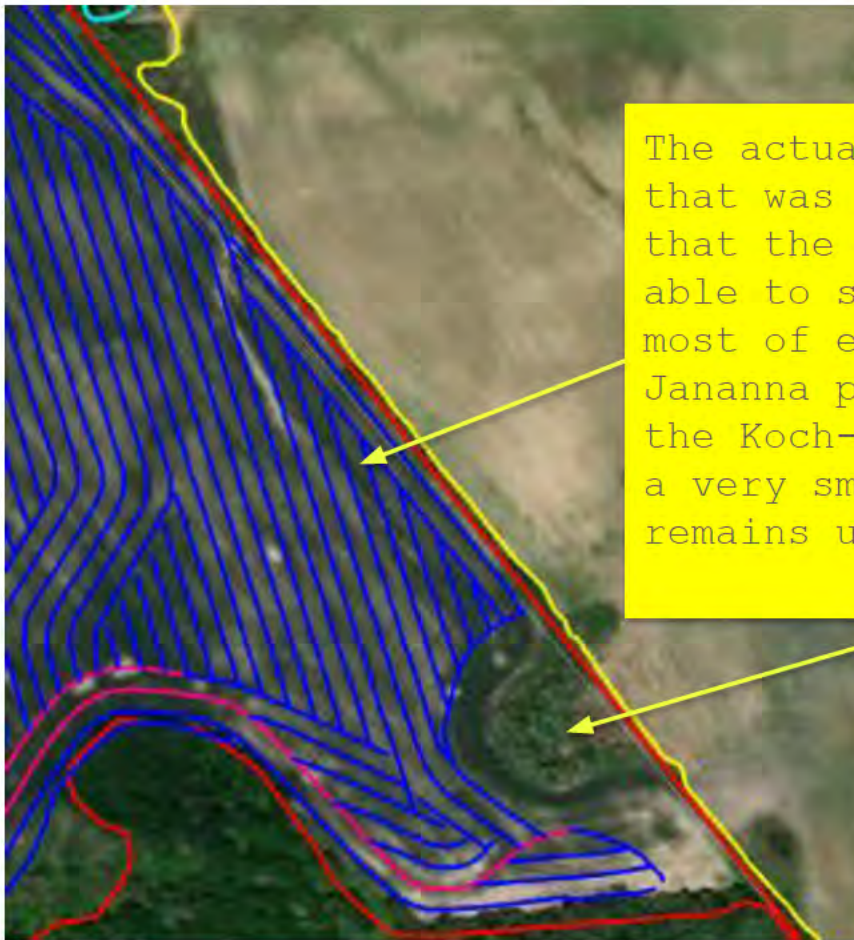
- The Applicant met with the Engineer in-person on February 9, 2023 to get answers to unanswered questions, discuss plans for a private solution and also discuss the systematic field tile already in the Jananna fields.
- From the meeting the Applicant was able to share the updated Jananna field tile plan he came into possession of. It was revealed that the Engineer was working from an outdated plan of Jananna systematic field tile system.
- The old schematic made it appear as though the tile installer was not able to tile a 5 acre portion of the southeast side of the field, the location where the Engineer is suggesting new infrastructure.
- The updated plan reveals that the installer was actually able to successfully tile most that 5 acre area. This is a critical piece of missing information.
- This glaring omission puts into question the thoroughness of the assessment, and the basis used to build the fundamentals of the plan, because the plan was already built by the time of this discovery.



The Engineer's plan was based on this outdated Jananna property tile plan indicating a portion of the southeast side of the Jananna field that is not able to be tiled.

limit of area to be drained Southeast Sacres

INCORRECT. Most of this area was able to be drained southwest



The actual field tile plan that was installed shows that the contractor was able to successfully tile most of east side of the Jananna property toward the Koch-Leis drain. Only a very small portion remains untiled.

See Applicant's AOD, Tab 060

- The Applicant also shared the information he gathered talking with private drainage contractors, the names of the contractors, the results of the survey work done and tiling options for the Applicant's property near the property line.
- The Engineer insisted he present the Applicant's proposed option for a private solution to Jananna.
- What was interesting is that following this meeting the Engineer and/or Drainage Superintendent took it upon themselves to immediately (obviously a pressing issue) contact the drainage contractor the Applicant was working with.
- Using their influence, they made it a point to squash the optimism the contractor displayed while talking with the Applicant - basically making them change their story.
- What is the contractor supposed to say? The contractor wants to secure future business as a supplier, so of course he's going to agree with them.
- The Applicant never heard back as to whether or not the Engineer was able to talk to Jananna about a proposed private solution.

Drainage Project Update

Cory Kittel <[REDACTED]>

To: [REDACTED]

Thu, Mar 23, 2023 at 2:47 PM

Christine,

It was good to chat the last time we had the opportunity. I'm all for communication and unfortunately that has definitely been lacking. What's the best way to communicate with your family? Since there are so many of you, is there a point person? How does it work?

I wanted to give you a quick update. Last time we spoke, and I mentioned this to some of your other family members, I'm fixing the pond problem. Like I said, this is a problem I wasn't aware of and one no one spoke to me about. I've been using the time since the last meeting to really dig into the details, talk with professionals, contractors and others. I now have a drainage plan drafted and an install date. This work will start and complete this Spring. I'm happy to sit down and share the details with you or anyone else if your family might be interested.

Here are the quick highlights/benefits of this work...

- It fixes the problem 100%. The engineer's planned drain that runs up to the pond is only a band-aid solution. It doesn't fix the problem.
- I'm paying for it all.
- The work will get done quicker. The engineer's plan will be tied up in appeals.
- This pond project requires me to run a new length of drain to the creek to divert the run-off. Since this needs to happen anyway, it can be routed through the low depression in the field to address any potential water there along with a drain. The low depression doesn't seem to be a problem anymore anyway, your field tiling took care of that, but a drain will be there anyway along the fence line just in case.
- This has the potential to save you tens of thousands of dollars.

See Applicant's AOD, Tab 023

Email part 1 of 2

Because there was no word back from the Engineer, the Applicant again tried to open up communication with Jananna. Email continued...

Here is the problem with the engineer's (Headway) current plan...

- It's forcing people to pay for something that doesn't benefit them - and that's just not right. That's an awful thing to do to families saving for their kids' education, fixed income seniors, farmers who could spend the money on actual projects that help them etc.
- No neighbour or other member in the watershed community is for this plan. There is currently a petition against the project with 30+ names on it and growing. This plan will 100% be met with appeals against it at all the various stages.
- Everyone is still having a hard time understanding why this is something you want to implement. We've all had a look at the drawings showing the systematic tiling you already have in the ground and it doesn't look like there is much improvement that can be made. It's already a sophisticated system. You have tile in all workable land that needs it. There is no new land to reclaim and no land being unused. How are you going to generate the new income to pay for this? Assuming you are only able to generate an extra \$300/yr by finding an additional one acre, it will take you 109 years to pay back the cost of this project. No one can make sense of it.
- Some have a feeling the engineer is steering you in the wrong direction. Based on my findings, they've made some critical mistakes already in their data gathering and recommended solutions. At the end of the day, the engineers and the contractors being paid to do this work are the only ones that are going to benefit from all this.

Like I said Christine, if you or anyone in your family want to come over, I can show you the work plan or I can swing by for a visit. I'm easy.

It's never too late to do the right thing and I think that's is what's needed here. Something that makes sense and works for everyone.

I don't think there was ever a dispute between neighbours, I just think the communication was lacking. I only heard about your intent to add a drain (2018) at a time when I couldn't make that decision. I didn't live here and I didn't own the land. Then things just went quiet. I assumed the problem was solved when you tiled your fields - and it looks like it worked. That low depression has never looked so good.

As always, I'm happy to talk. Give me a call or email when you have a moment.



Cory Kittel <corykittel@gmail.com>

Watershed issues

Theresa Gawron <[REDACTED]>

Sun, Mar 26, 2023 at 12:48 PM

To: [REDACTED]

Cc: jkuntze@ksmart.ca

Dear Mr Kittel,

Thank you for your recent email to Christine. She has asked me to respond to you as her husband passed last Thursday and she is unable to attend to this.

We appreciate you efforts to mitigate your leaking pond issues and any patchwork that you plan on proceeding with may result in a temporary fix.

As far as costs are concerned, I'm sure you are well positioned to bear the costs as we are, as you are the owner of a large property yourself.

Please direct any further concerns to the Township of Wilmot.

Regards,
Theresa Gawron
Jananna Corp.
[REDACTED]

Follow-Up

1 message

Cory Kittel [REDACTED]

Tue, May 23, 2023 at 1:47 PM

To: Stephen Brickman <stephen.brickman@headwayeng.ca>

Stephen,

I hope you had a good long weekend. If possible, please give me a ring today. I left a message for you on the 12th. Could you provide me the attendance records for the 3 meetings held to date regarding the Jananna project? There was the on-site meeting and two public meetings. If you could send my way by Thursday, that would be great.

I also wanted to inquire about your meeting with the Jananna folks. When you were at my place you suggested you should be the one to reach out to them regarding my plans to install and pay for a section of drain. I just wanted to discuss what came of that. Give me a shout.

Cory
[REDACTED]

The Applicant again tried to get a response from the Engineer. No response to this email was received.

See Applicant's AOD, Tab 029

Re: Jananna Field Plan Nobody Knew About

Cory Kittel

To: John Kuntze <jkuntze@ksmart.ca>, drains@wilmot.ca

Cc: jeff.molenhuis@wilmot.ca

Mon, Apr 17, 2023 at 11:10 PM

John, I'm just waiting on a response to this still. Perhaps give me a call Tuesday to discuss.

Cory

On Mon, Mar 27, 2023 at 4:35 PM Cory Kittel <[REDACTED]> wrote:
John

The attached final tiling plan from the Jananna property recently came into my possession. Everyone has been under the impression that the East side wasn't tiled due to a lack of outlet. That's not the case at all. I also found a drain on the East end of the property that no one was made aware of.

First and second email to the Drainage Superintendent regarding the most recent Jananna field tile plan the Engineer did not have in his possession. No response to this email was received.

See Applicant's AOD, Tab 024

Current Jananna Field Tiling & Drainage in the Ground Today



Already installed drain
(so what's the point of the new one?)

All of this was shockingly absent from the engineers preliminary report so I asked him about it. He has never seen this version of the plan and was unaware of the drain already in the ground - MAJOR MISSTEP. This makes his current plan for a drain in this exact same area redundant and completely unnecessary.

Maybe you can help me out here. With this new information the neighbours are asking why we are spending \$460,000+ on a field that ALREADY has a sophisticated systematic tile system in place, has an outlet, where no persistent flooding exists, no improvements can be made, no farmland reclaimed and no financial benefit proven? Would love to get an answer. Since you were the one to approve this in the first place, I'm assuming you have an answer.

Cory Kittel
[REDACTED]



Cory Kittel <corykittel@gmail.com>

Conditions Update

Cory Kittel <[REDACTED]>
To: Stephen Brickman <stephen.brickman@headwayeng.ca>

Tue, Apr 18, 2023 at 3:12 PM

Hey Stephen,

Just wanted to pass along this update. I've been documenting this for what feels like a couple years now, here is the latest footage I captured...

<https://drive.google.com/file/d/1dEebeuWg8D3PH8VBHDbxsxMOHdvuLOj3/view>

The snow, rain, melt took off pretty quick and there was a lot of it. I actually saw farm activity and vehicles on the Jananna fields before anyone else's, so things can't be that bad if that's the case.

See Applicant's AOD, Tab 026

Video taken Apr 12/23
- Jananna Property -
Southeast Side



See Applicant's AOD, Tab 075

[Video Link](#)

Email part 2 of 2

Timeline: Watershed Community Town Hall

- With very little information to go on, many questions not answered, and no opportunity for engagement, the non-petitioner landowners decided to meet on May 26, 2023 for an open, town hall style gathering to have their voices heard and get some answers. Pretty much all the landowners (30+) were in attendance. The meeting was held at the Applicant's farm.
- The meeting was also attended by:
 - Township Councillor - Kris Wilkinson - Councillor - Ward 2 (our primary contact at the Township. The project is in Ward 2)
 - Township Councillor - Harvir Sidhu - Ward 3
 - Township Councillor - Lillianne Dunstall - Ward 4
- The councillors heard from a group unhappy with the project and process to-date. They were not able to offer much back other than to say '*their hands were tied*' and that their priority was to minimize the Township's liability. They said they can't risk or afford to put the Township at risk of any litigious activity because the Township is 'broke'.
- It was decided the landowners would make one last attempt at making contact with Jananna to better understand the need for such a project and explore all options.



Cory Kittel <corykittel@gmail.com>

Re: Quick Update and Hopeful Meet Up

Theresa Gawron [REDACTED]

Wed, Jun 7, 2023 at 12:41 PM

To: Cory Kittel <corykittel@gmail.com>

Cc: Walter Krupnik [REDACTED] Chris Gawron <[REDACTED]>

Hello Cory,

Thank you for your email. Our family looks forward to presentations and discussions at the Council meeting on Monday June 26th. See you there.
Regards,

Theresa Gawron

From: "Cory Kittel" [REDACTED]

To: "Theresa Gawron" [REDACTED] Walter Krupnik [REDACTED] "Chris Gawron" [REDACTED]

Sent: Monday, June 5, 2023 4:03:10 PM

Subject: Quick Update and Hopeful Meet Up

Hi Theresa, Walter, Chris,

I hope you are all well. Since these are the only email addresses I have, I've included you on this email, but if there is anyone else I should be including, please let me know.

With the report complete and more details of the project costs finally available, now would be a great time to explore all the options on the table. A couple of the neighbours are hoping to have a very positive and friendly meet-up and discussion about the project. Just to make sure we are exploring everything and understand the needs. I reached out to John K and the Township as you suggested and this is what they suggested is best. Just neighbours talking with neighbours. There is really nothing to lose - maybe we spark some ideas, figure out a way to lower some of the cost and still get the same results - if not you can just continue down the path outlined in the report - again, there is really nothing to lose. Just a good open and friendly discussion. If the weekend works best or a weekday evening you prefer, just let me know. I can relay what works best. I hope this makes sense. I think it's worthwhile given the cost and impact involved.

I also wanted to provide another quick update regarding the pond. I promised you I would get this fixed. I've secured a contractor and have been able to finally secure and ship in heavy clay to infill parts of the pond, re-enforce the sidewalls and build berms. I had a survey completed and this plan is professionally designed and also details work to deal with any water and drainage issues including the potential for water in the low area of the field since the pond drain needs to go that way anyway. I presented this plan to the Engineer in February and he seemed receptive. It checks all the boxes and at a fraction of the cost. He said he was going to discuss it with you. Was he able to?

Again, the intent here is just to have a good discussion, keep it positive, and keep the communication going which is so important. I hope you agree. Let me know.

Cory
[REDACTED]

This is an email showing the chain of communication following the land owner meeting to arrange contact with Jananna. Their communication has been cold and short throughout the entire process.

Next Steps**Kris Wilkinson** <kris.wilkinson@wilmot.ca>

Sun, May 28, 2023 at 10:30 PM

To: Cory Kittel [REDACTED]

Hi Cory,

Thank you for having us out to speak on Friday. I have more information for you after reviewing the staff report for consideration tomorrow night May 29 and reading the drainage report.

Please review the next steps.

After the next public meeting then there would be one more consideration of the report before proceeding and moving to a court of revision. Again, I must reiterate that the Drainage Act is driving this process and the township is put into a tough spot if there is denial and then appeal of the application.

This is the current options in front of us:

On July 12, 2021, Council appointed Headway Engineering to prepare an Engineer's Report under Section 4 of the Drainage Act. In the Report, the Engineer outlined the history of the Bamberg Creek, Jananna, and Koch-Leis Municipal Drains

On May 5, 2023, Stephen Brickman, P. Eng., Headway Engineering filed with the Township Clerk the Bamberg Creek, Jananna and Koch-Leis Municipal Drain Report dated April 28, 2023.

This is an email from
Township Councillor
Kris Wilkinson
following the town
hall meeting with the
non-petitioner
landowners

REPORT:

By accepting the Engineer's Report, the Township Clerk will schedule a meeting for Consideration of the Report, which is scheduled to take in place in June or July, 2023.

At the Consideration of Report meeting, Council can receive a presentation on the report from the Engineer and receive comments, questions, and other input from affected landowners, agencies and utilities. At the conclusion of the meeting, Council must provide the opportunity for property owners to add or remove their name from the petition and then confirm with the Engineer if the petition submitted remains valid under Section 4 of the Act.

At this stage, Council may decide to:

1. Provisionally adopt the Engineer's Report

- Provisionally adopting the Report by providing first and second reading to a provisional by-law would signal Council's intent to proceed with the Engineer's Report and initiates the appeal process, if necessary, under the Act.

2. Refer the report back to the Engineer

- if there appears to be errors in the report or Council believes the report should be reconsidered for any other reason, Council may refer the report back to the Engineer.

- The Township's Drainage Superintendent and Township staff advise that the Engineer's Report is in general conformity with the Drainage Act.

3. Take no action on the Engineer's Report

- Any petitioner could appeal to the Drainage Tribunal the decision of Council to not proceed with the report under the Drainage Act.

- If there is no appeal the cost of the Engineer's Report (\$70,300) would have to be paid from the Township general levy.

- Under Section 79 of the Drainage Act the Township would be liable for any damage claim by an affected landowner due to failure to properly maintain an existing municipal drain

Call Me if you have any questions.

Cheers,



Kris Wilkinson

Councillor Ward 2

Township of Wilmot | 519-807-4173

Wilmot.ca | [Twitter](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)

-
My work day may look different than your work day. Please do not feel obligated to respond out of your normal working hours

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Timeline: Discovery of Area Requiring Drainage & Petition Validity

- The Engineer's Report was made available online May 2023 and in print on June 1, 2023 via registered mail.
- First impressions were that the first section, the rational, was very thin and only a few pages. There was no substance or evidence backing any of the claims of benefit or hardships. It quickly jumped into the cost and technical aspects which make up the large majority of the report. Details felt glossed over, generalized and vague. Also the reporting on existing drainage systems felt incomplete.
- Questions started to arise regarding the Engineer's determinations specifically this part from the report:
 - *The area requiring drainage is part of Lot 10, Concession 3, Block B. The petition is valid in accordance with Section 4(1)(a) of the Drainage Act.*
- This prompted some questions and an email exchange with Tim Brooks at OMAFRA for a deeper dive into petition validity and "area requiring drainage".

RE: Clarifying Question of Petition Validity

Brook, Timothy (OMAFRA) <Timothy.Brook@ontario.ca>
To: Cory Kittel <[REDACTED]>

Wed, Jun 7, 2023 at 10:45 AM

Hi Cory,

In Section 4 of the Drainage Act, the term "lands in the area" refers to the lands in the area requiring drainage. It is how the engineer determines if the petition is valid or not. The engineer needs to determine the area that requires drainage and then compares the properties in that area with the properties that have signed the petition to see if one or more of the criteria in Section 4(1) are met or not.

I have attached both Section 4.6 and Section 4.7 of Publication 852, A Guide for Engineers Working under the Drainage Act. These sections summarize the topics of the area requiring drainage, the petition and some of the case law regarding these topics. The full decisions can be found on www.canlii.org/en/on/ondr as well as other referee decisions.

Sincerely,

Tim

Tim Brook

Timothy R. Brook, M.Sc., P.Eng.

Ministry of Agriculture, Food and Rural Affairs

Drainage Program Coordinator

519-766-3651

Two attachments included sections from the Guide for Engineers Working under the Drainage Act, OMAFRA.

Email part 1 of 2.

From: Cory Kittel <[REDACTED]>
Sent: Tuesday, June 06, 2023 10:33 PM
To: Brook, Timothy (OMAFRA) <Timothy.Brook@ontario.ca>
Subject: Clarifying Question of Petition Validity

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Hi Tim,

<https://mail.google.com/mail/u/0/?ik=a7f9f6cff4&view=pt&search=all&permmsgid=msg-f:1768055494686510500&simpl=msg-f:1768055494686510500...> 1/2

3/16/24, 12:53 AM

Gmail - RE: Clarifying Question of Petition Validity

I'm hoping you can help me understand this part of the Drainage Act. I for the life of me can't make sense of it. For the validity of the petition, this is what the engineer referenced in his report.

Petition


- 4 (1) A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situated by,
- (a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;

"lands in the area" I don't really understand

I'm also trying to gauge the validity of the original petition when the engineer adds new areas requiring drainage due to the scaling nature of a project which then changes the 'majority in number'.

Cory

2 attachments

 **852 - Part A, Section 4.7 Case Law Petition.pdf**
179K

 **852 - Part A, Section 4.6 ARD and Petition.pdf**
2315K

Email part 2 of 2

Discovery: The Invalid Jananna Petition

The Drainage Act provides a procedure whereby the municipality may, with a valid petition of landowners in the "area requiring drainage", provide a legal outlet for surface and subsurface waters not attainable under common law.

- Duties of the landowner under the Drainage Act guide, OMAFRA

The wording here is very important. The keywords are "valid petition" and "area requiring drainage".

The signed petition forms the basis of Jananna, Bamberg Creek and Koch-Leis Municipal Drains. If the petition is deemed to be invalid, there is no path forward for these projects. The Engineer in his report wrote...

“The petition is valid in accordance with Section 4(1)(a) of the Drainage Act.”

Let's take a closer look at Section 4(1)(a).

Drainage Act, R.S.O. 1990, c. D.17

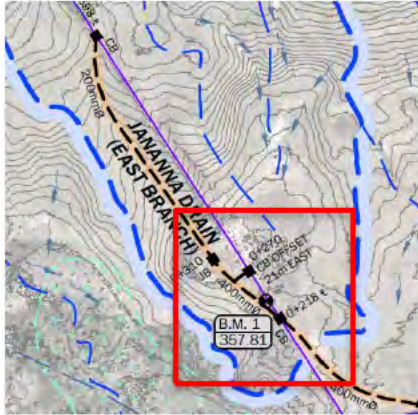
Petition

4 (1) A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situate by,

- (a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;*

This basically says the majority of landowners in the 'area requiring drainage' have to be on the Petition for it to be valid. Since Jananna are the only ones on the petition, the Engineer, with his Section 4(1)(A) determination, is saying that the 'area requiring drainage' falls exclusively within the boundaries of the Jananna property... but here's the problem...

- The 'area requiring drainage' does not fall exclusively on the Jananna property. The Engineer, by error or convenience, is determining the area requiring drainage incorrectly. He wrongfully is insisting that all water stops at the Jananna fence/property line and therefore the area requiring drainage magically stops at the fence/property line. It does not.
- The Engineer created an area requiring drainage to satisfy his needs and picked out only a portion of what is in fact a clearly obvious larger distinct basin requiring drainage to satisfy the request of the Petitioner (Jananna).
- Doing this creates a false majority. The lands in the area requiring drainage include a minimum two properties – the Jananna Corp property and the Applicant property, therefore both Jananna and the Applicant need to be on the petition for it to be valid. The Applicant is not on the petition, was never asked to be on the petition and was not even properly notified about the required on-site meeting.



Let's take a look at the southeast portion of the proposed Jananna Drain East Branch



1022 Gerber Rd, Wilmot X Q

Show search results for 1022 G...

Icons for different map views: street view, 3D, etc.

Fence / Property Line

JANANNA
PROPERTY

Engineer's Incorrect "Area Requiring Drainage"

Only one of these
properties signed the
petition, therefore
there is no majority.

Actual "Area Requiring Drainage"

APPLICANT
PROPERTY

Engineer's Proposed Catch Basins

Layer List

- ☒ Assessment Parcels (M)
- ☐ Ownership Parcels (Te
- ☐ Survey Points
- ☐ Wellhead Protection S
- ☐ Municipal Boundaries
- ☐ 2022 Aerial Imagery
- ☐ 2020 Aerial Imagery
- ☐ 2019 Aerial Imagery
- ☒ 2018 Aerial Imagery
- ☐ 2017 Aerial imagery
- ☐ 2016 Aerial Imagery
- ☐ 2015 Aerial Imagery
- ☐ 2014 Aerial Imagery
- ☐ 2012 Aerial Imagery
- ☐ 2010 Aerial Imagery
- ☐ 2009 Aerial Imagery



Layers

Legend

Draw

Find

Print

1010 Gerber Road Wilmot

☒ Wetland (GRCA)☐ Lake Erie Flood (GRCA)☐ Lake Erie Shoreline Reach (GRCA)☐ Lake Erie Dynamic Beach (GRCA)☐ Lake Erie Erosion (GRCA)

Land Base

Hydrology

Drainage

☐ Watercourse (GRCA)☒ Waterbody (GRCA)☒ Great Lakes (GRCA)☐ Average Annual Runoff (GRCA)

Floodplain

Watershed

Hydrogeology

Water Quality

Source Water Protection

Monitoring Sites

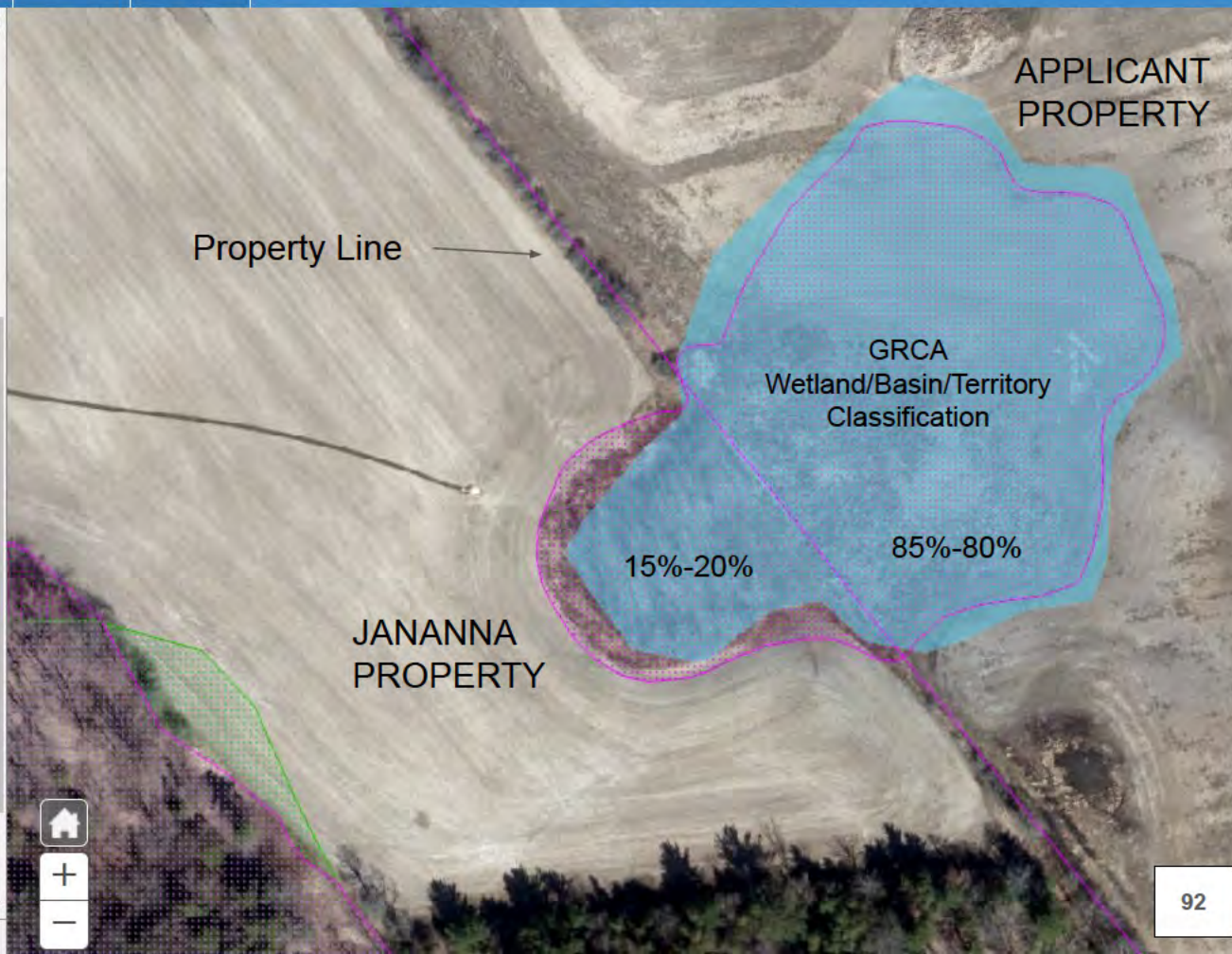
Biology and Ecology

Infrastructure

Property

☒ Watershed Imagery☒ 2020 Ortho (ON)☐ 2015 Ortho (ON)☐ 2010 Ortho (ON)

Themes



Applicant Property

You can even see on the submitted petition photo, the area requiring drainage clearly falls on two properties

Fence / Property Line

possible outlet

Jananna Property

Jananna Property

Fence / Property Line

Photo taken Mar 11/24

Applicant Property

An aerial photograph showing a property boundary. The top-left area is a green field labeled 'Applicant Property'. The bottom-right area is a brown, wooded area labeled 'Jananna Property'. A line of trees and shrubs separates the two, with a white arrow pointing to it labeled 'Fence / Property Line'. A body of water is visible in the top-right corner.

Applicant Property

Fence / Property Line

Photo taken Nov 3/23

Jananna Property



Applicant Property

Jananna Property

Low-lying Basin

Fence / Property Line

Photo taken Nov 3/23

Jananna Property

Low-lying Basin

Fence / Property Line

Applicant Property

Photo taken May 25/2023

Photo taken June 13/2023

Jananna Property

Fence / Property Line

Sprayer Tracks

Applicant
Property

An aerial photograph showing a large, dark, irregularly shaped area of water or floodwater. The water is dark, suggesting it might be deep or contain sediment. To the left of the main water body, there is a lighter, more textured area that appears to be a field or a different type of terrain. A line of trees or vegetation separates the dark water from the lighter area. An arrow points from the text 'Fence / Property Line' to this line of vegetation. The overall scene is a top-down view of a flooded landscape.

Jananna Property

Fence / Property Line

Photo taken Mar 27/2023 - Facing West - Spring Thaw. As a side note, the Engineer has made no assurances that their solution will solve spring melt. Even fields with the most sophisticated systems experience water collection this time of year. All the creeks, rivers and streams are at their capacity.

Applicant Property

Jananna Property

Photo taken June 22/2023

Fence / Property Line



Applicant Property

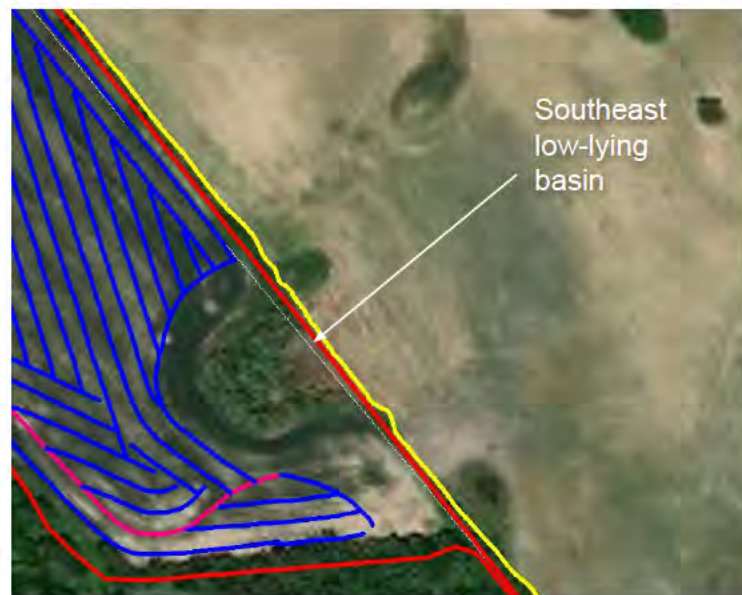
Applicant Property

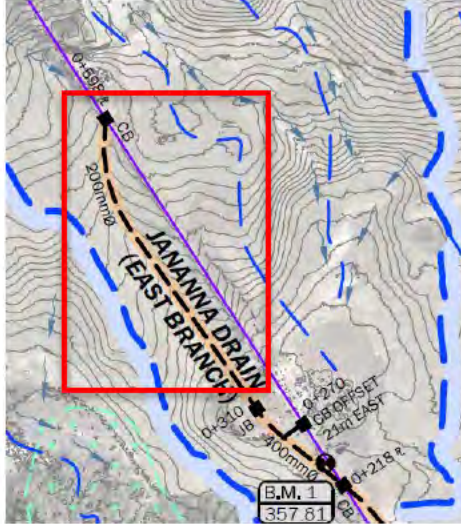
Photo taken Nov 6/2022

Fence / Property Line

Jananna Property

The Engineer's Report references *"Areas within the drainage area are likely to be tiled in the future"*. As you can see from the Jananna systematic field tile plan, this is the only area where drainage tile could not be installed, so clearly this is an area requiring drainage.





For the part of the proposed Jananna Drain East Branch running north, the same thing applies...



Find address or place



Jananna Property

Actual "Area Requiring Drainage"



Note:

A newly installed drain already exists in this location that little mention has been made of in the report.

Engineer's Incorrect "Area Requiring Drainage"

All the catch basins are being placed on the property line which clearly indicates the 'area requiring drainage' is on both properties.

Applicant Property

Fence / Property Line

Engineer's Proposed Catch Basin

Applicant Property

Low point

Applicant farmland out of production

Jananna side

Property/Fence
Line

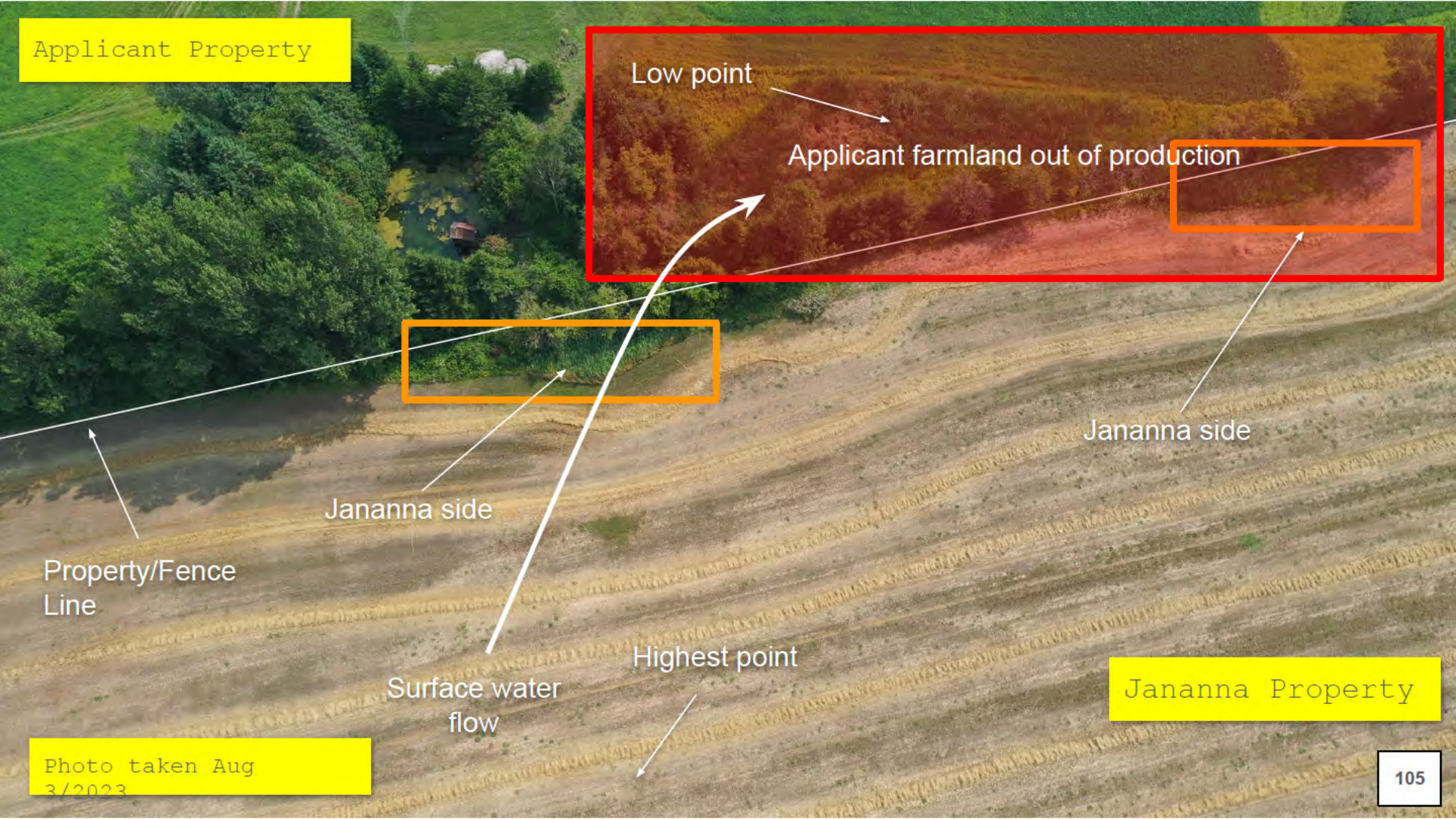
Jananna side

Surface water
flow

Highest point

Jananna Property

Photo taken Aug
3/2023



Jananna Property

Applicant Property

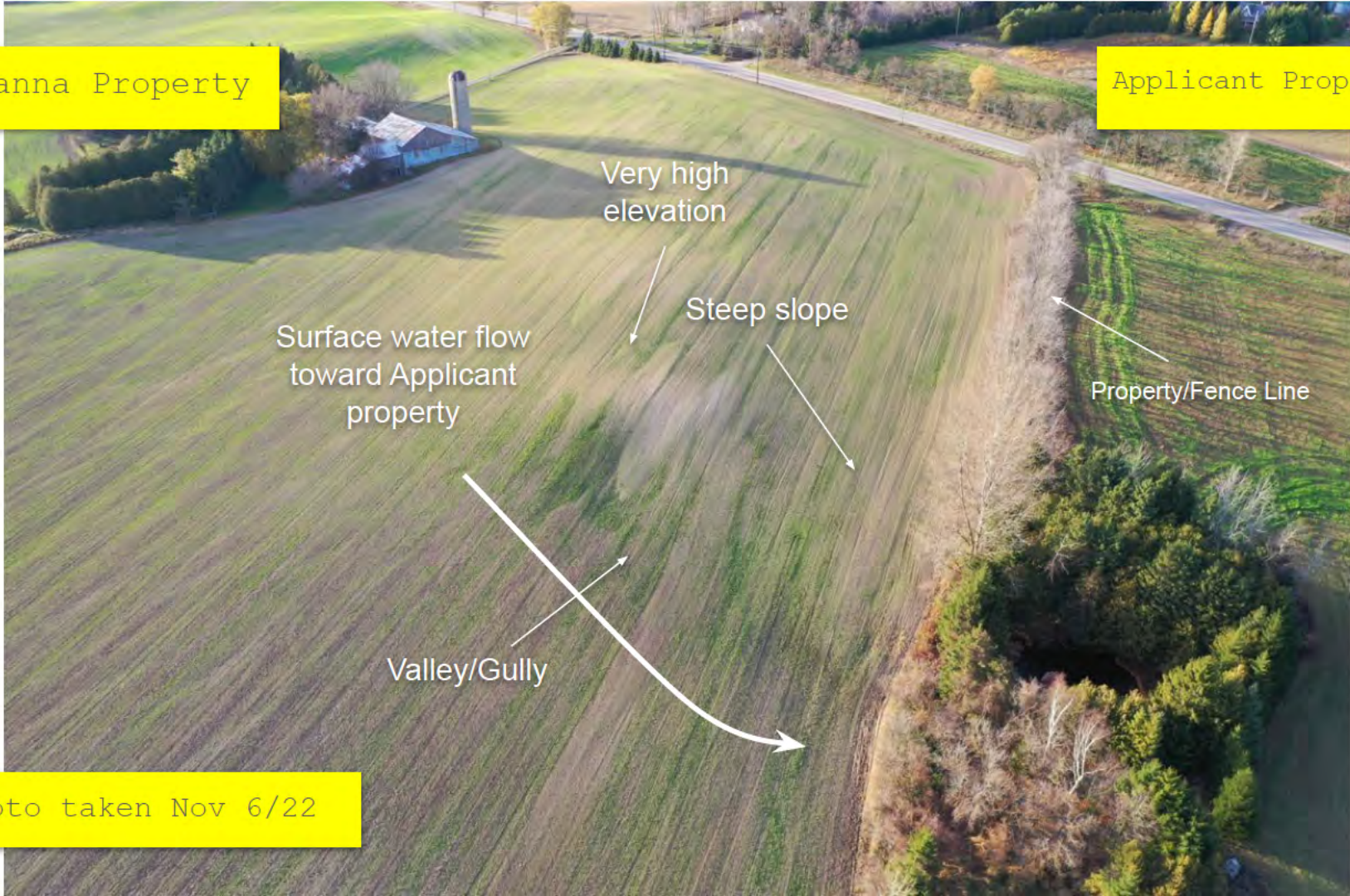


Photo taken Nov 6/22

Photo taken Nov 6/22

Jananna Property

Very high
elevation

Surface
water flow

Lowest spot

Applicant Property



Steep slope

Applicant Property

Surface water
coming from
Jananna
property

Lowest point

Jananna Property

Property/Fence Line

Photo taken Aug 10/23 -
East Side - Facing North



High elevation

Fence / Property Line

Applicant Property

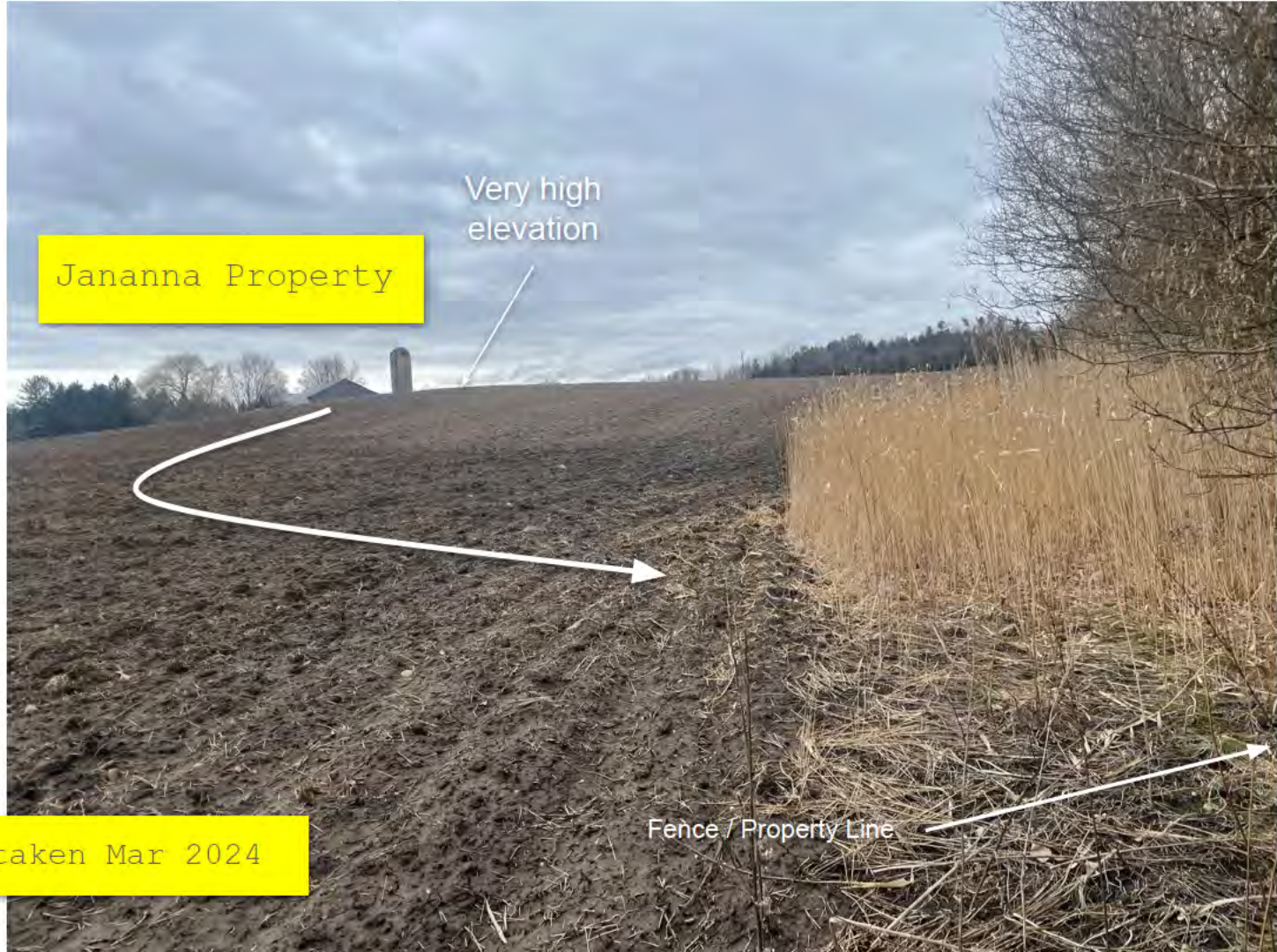
Lowest point
most impacted

Area requiring
drainage

End

Jananna Property

Photo taken Aug 10/23 -
East Side - Facing North

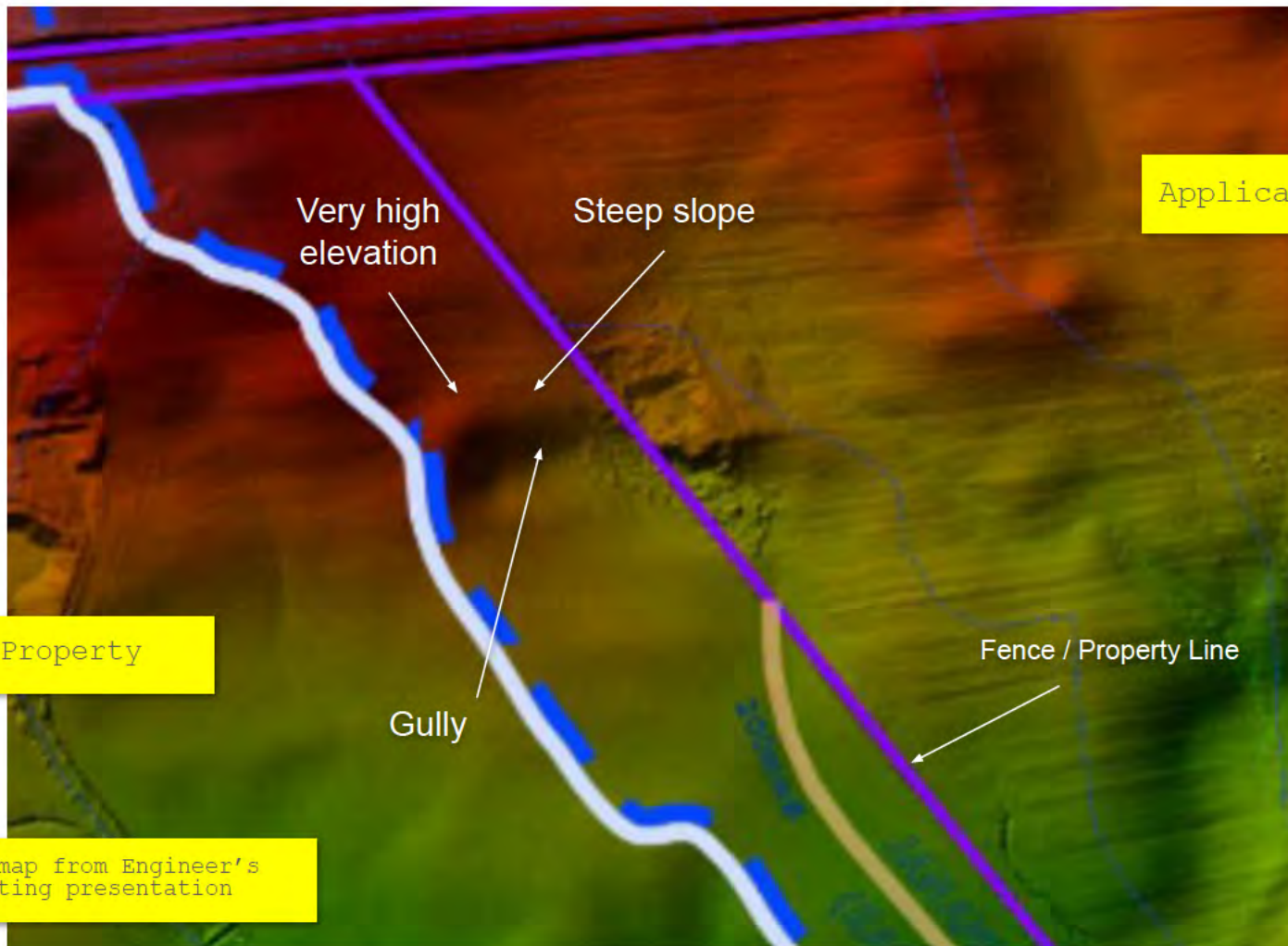


Jananna Property

Very high
elevation

Fence / Property Line

Photo taken Mar 2024



Very high
elevation

Steep slope

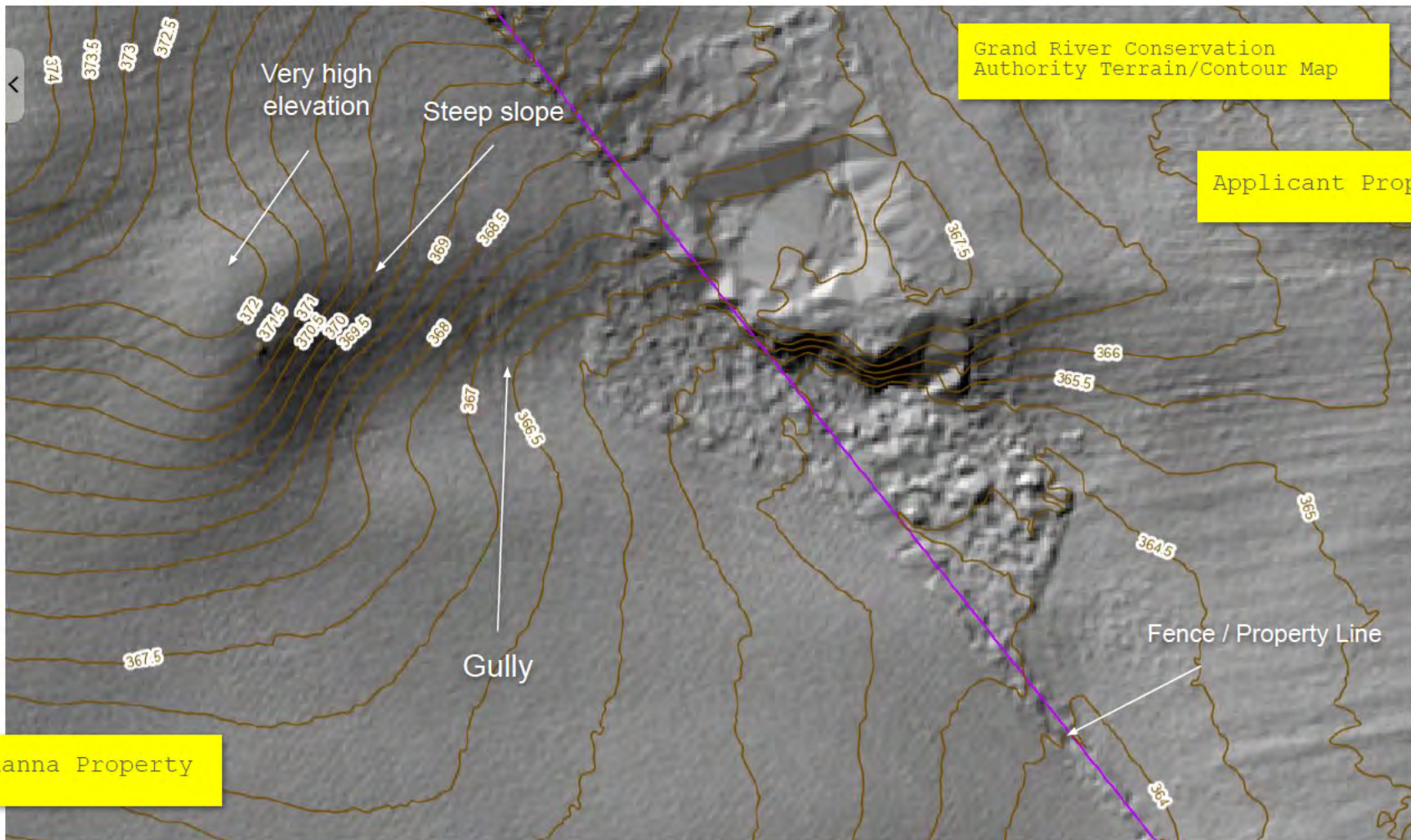
Applicant Property

Jananna Property

Fence / Property Line

Gully

Elevation map from Engineer's
Public Meeting presentation



See Applicant's AOD, Tab 106

Fence / Property Line

Start

End

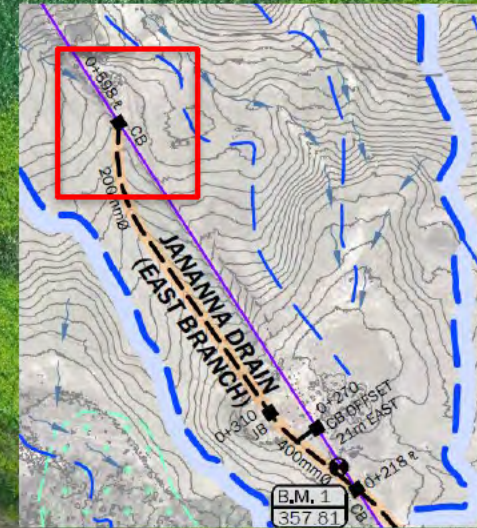
Working
field tile

This is the area of an already installed new drain inlet that hasn't gotten a lot of attention from the Engineer. It has never been mentioned in any presentations or reports. This existing drain makes anything else potentially redundant. What isn't caught by this inlet is captured by the in-ground field tile.

Engineer Image



This small (old?) washout is fairly insignificant relative to the property as a whole. The Engineer is making this out to be bigger than it is, and keeps showing the one and only image they have of this small area.



Jananna Property - East
Branch Photo taken
July 31/23



Fence / Property Line

Photo taken Nov 3/23

Jananna Property - The same
East Branch area as shown
previous



Jananna Property

Property/Fence
Line

Land renter working
this 'problem area'
without issue on
November 2, 2023

[Video Link](#)

Clearly the 'hardships' and issues on display are having a much bigger (negative) impact on the Applicant than they are on the Petitioner (Jananna), therefore the Applicant should have a say in what the solution should be. Instead the Applicant was ignored and left out of the planning stages and beyond. The hardships and issues are **NOT EXCLUSIVE** to the Petitioner, therefore the area requiring drainage is **NOT EXCLUSIVE** to the Petitioner.

The following are instructions pulled directly from the OMAFRA Guide for Engineers:

The engineer must be satisfied there is an area that requires drainage. Rely on the following items to establish the boundaries of the area requiring drainage:

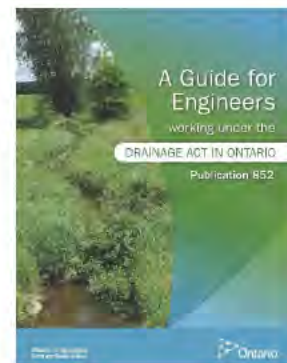
- area requiring drainage as described on the petition
- input received by the petitioners and other participants at the on-site meeting
- visual observations of the area including topography, land use, physical features and drainage features
- topographical mapping and other maps gathered in advance of the on-site meeting
- guidance provided by referee or appeal court decisions

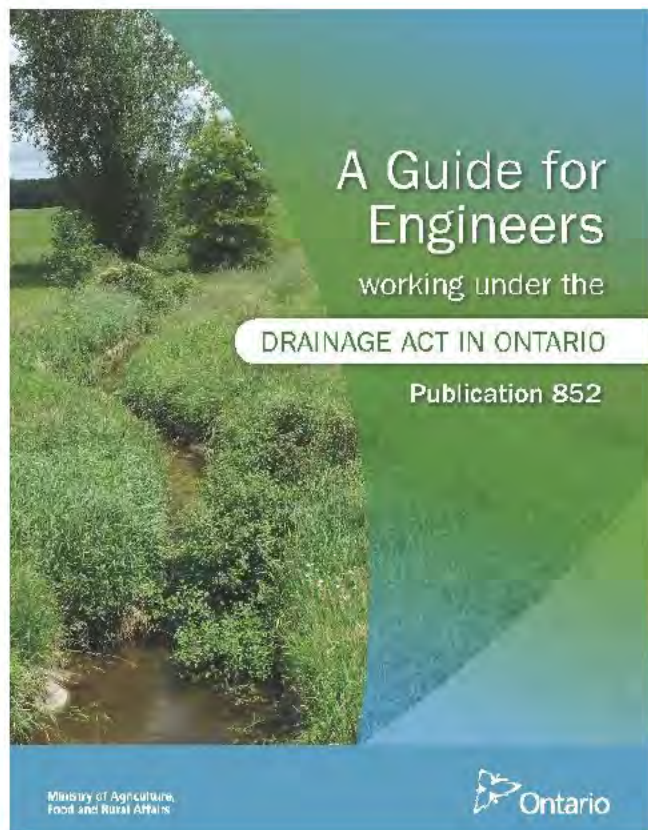
The original petition clearly shows the drainage area across two properties as shown earlier.

The Engineer led a non-existent public engagement. Only 3 non-petitioner landowners were invited to this meeting. Only 1 showed up. The Applicant received notice after the meeting was already over. This left 94% of the 17 impacted landowners without the opportunity to attend this meeting which is a requirement by law according to the Drainage Act.

All mapping applications including Waterloo Region GIS, GRCA GIS, and others show a consistent and well defined drainage area currently and over time. Photographs and on-site inspection will also show the same characteristics. Engineer was working with the wrong field tile map. The area requiring drainage is unmistakable and obvious.

The Engineer did not consult the case law found in his guide which clearly outline the requirements and similar mistakes made by other Engineers.





Works that are considered to be more than improvements to an existing drain and are not authorized include:

- the extension of an existing drain upstream
- the addition of a new branch to an existing drain

In these situations, the engineer will have to consider if the project should have been initiated by a petition (Section 4).

4.6 Area Requiring Drainage and the Validity of the Petition (Section 4)

The petition is the legal document that initiates the *Drainage Act, 1990* process to design, construct and finance a drain across multiple properties. Property owners can challenge the validity of a petition to the referee (Section 47(1)). The validity of the petition is the most significant determination that an engineer makes for a drainage works initiated by petition.

Section 4(1) establishes four criteria for the engineer to evaluate the validity of the petition. In order for a petition to be valid, it must contain signatures from one of the following:

- the majority in number of owners in the area requiring drainage
- the owners representing at least 60% of the area requiring drainage
- the road authority, where a road requires drainage
- the Director, where drainage is required for agricultural land

A petition must be submitted on one of the three forms referenced in O. Reg. 381/12 of the *Drainage Act, 1990*:

- Petition for Drainage Works by Owners — Form 1
- Petition for Drainage Works by Road Authority — Form 2
- Petition for Drainage Works by Director — Form 3

DID YOU KNOW?

The determination of the validity of the petition has been a major cause of appeals to the referee. Guidance in making this determination is found by reviewing referee and appeal court decisions that relate to the validity of the petition.



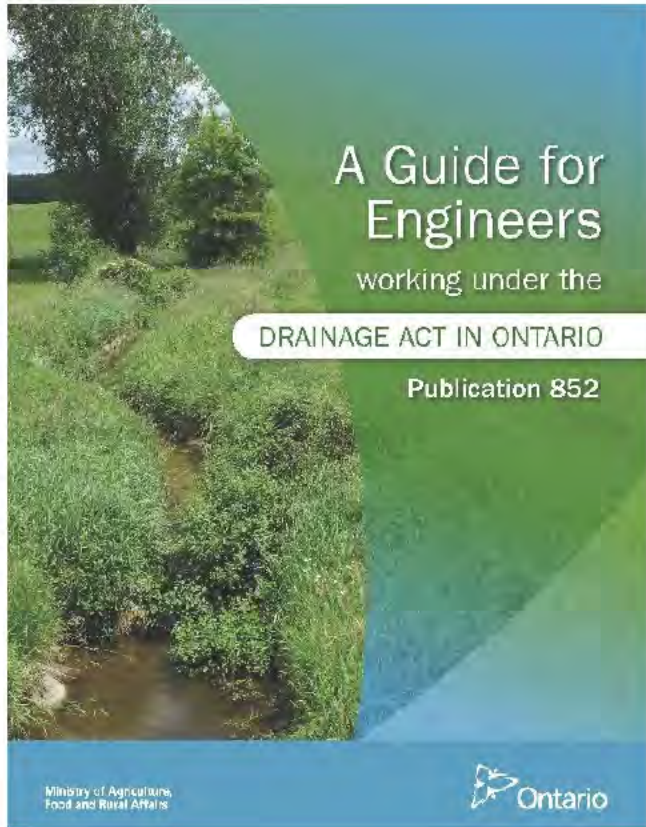
The engineer should create a map showing all property boundaries and roads within the area requiring drainage and keep it on file. The map should identify:

- property boundaries, area and ownership
- for a Form 1 petition, properties (including roads) that are legally bound by the signatures
- for a Form 2 petition, properties for the signing road authority

4.6.1 Petition for Drainage Works by Owners

The petition by owners is submitted under Section 4(1)(a) or (b). To evaluate the validity of the petition, the engineer must conduct three steps.

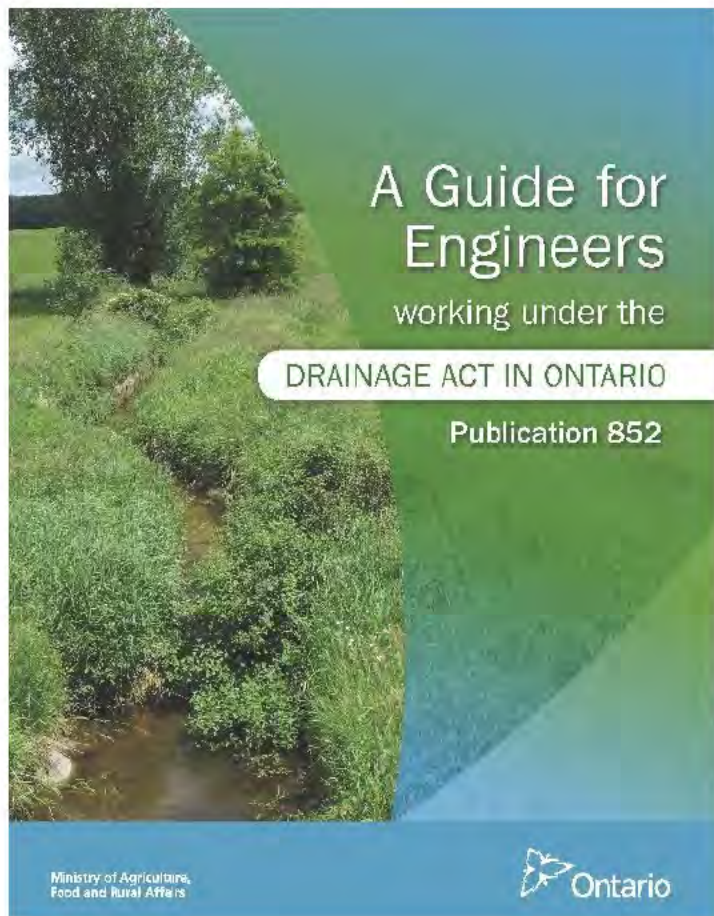
1. The *Drainage Act, 1990* does not provide a definition of the area requiring drainage or a defined process for determining that area. The engineer must be satisfied there is an area that requires drainage. Rely on the following items to establish the boundaries of the area requiring drainage:
 - area requiring drainage as described on the petition
 - input received by the petitioners and other participants at the on-site meeting
 - visual observations of the area including topography, land use, physical features and drainage features
 - topographical mapping and other maps gathered in advance of the on-site meeting
 - guidance provided by referee or appeal court decisions
2. Once the engineer has determined the area requiring drainage, the next step is to verify the signatures of the petitioners.



“The validity of the petition is the MOST significant determination that an engineer makes for a drainage works initiated by petition”

“DID YOU KNOW? The determination of the validity of the petition has been a major cause of appeals to the referee. Guidance in making this determination is found by reviewing referee and appeal court decisions that relate to the validity of the petition.”

SOURCE: A Guide for Engineers working under the DRAINAGE ACT IN ONTARIO Publication 852 (Published by OMAFRA)



To better understand all this you have to read the precedent setting exemplary case law examples published in *Section 4.7 of Publication 852, A Guide for Engineers Working under the Drainage Act*. These examples are provided to help the Engineer better understand the law and how to determine the 'areas requiring drainage'.

Jones v. Derby (Town), 1986

You cannot adjust the irregular “shaped saucer with reasonably well defined banks around it” just because a landowner indicates his desire for drainage, without first ascertaining where those well defined banks are located on the ground. In his zeal to accept the Petitioner’s version of the area requiring drainage [the engineer] has not formed the proper independent judgment when making his assessment.

I am of the view that it is the intention of the present Drainage Act, that lands not described in the petition as requiring drainage that are subsequently found to require drainage by the engineer in his report to have similar physical features so as to form one area requiring drainage with those lands described in the petition as requiring drainage, are as well, to be included when the requirements of Sec. 4(a) or (b) are being considered, otherwise the lands described in the report by the engineer in accordance with Sec. 8-1(a) would not be fairly described. Failure to do so would not afford the intended protection for those who did not sign the petition.

Westendorp v. Elizabethtown (Town), 1986

The best definition of the area requiring drainage that I was able to research appeared in a letter dated November 29, 1929, to the Clerk of the Township of West Williams from Drainage Referee George F. Henderson:

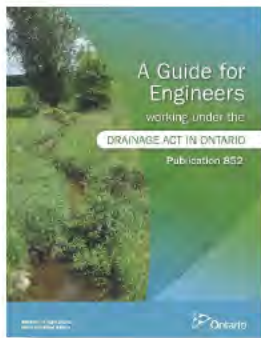
“It is not necessary that there should be a majority of the petition of all those whom the engineer finds to be eventually interested in the drainage work. What you need is in first place a reasonably well defined drainage area, that is, a section of land requiring drainage, and it is this territory which should be described in the area. It is of course not proper to pick out just enough lots to enable a majority, but there should be what I generally speak of as an irregularly shaped saucer with reasonably well defined banks around it. This might be all on one lot, although that is of course a rare case, but the point is that once you have that low lying section of land requiring drainage, it is a majority of the owners in that section that you need for a petition, no matter how many others the Engineer may bring in...”

Duane vs. Township of Finch, Referee G. Henderson, 1908

“Since that amendment, it is no longer necessary that the petition should be signed by a majority of the owners whose lands are found to be benefited by the engineer who makes the report, but it is still necessary, as it always was necessary, that the petition should describe a real drainage area, which should bear some reasonable proportion to the size and extent of the drainage scheme...”

It is the intention of the Act that the township council should pass judgement upon the sufficiency of the area described in the petition, and should see to it that the area is therein fairly described. When a township council does really and fairly exercise judgement upon such a matter, I think I should be loath to review their exercise of judgement... What I would wish to point out very plainly is that it is not proper to pick out any portion or portion of what is in fact a distinct basin requiring drainage. Subject to the discretion of the township council, the majority, are to rule, but they must constitute a real majority, and in no case should the council permit the provisions of the Act to be abused by allowing a real minority to impose upon an actual majority.

The full decisions can be found on www.canlii.org/en/on/ondr as well as other referee decisions just like these.



Also found in Section 4.6 of Publication 852, A Guide for Engineers Working under the Drainage Act, is this simple illustrated example to determine validity.

In order for a petition to be valid, it must contain signatures from the majority in number of owners in the area requiring drainage.

To determine the validity of the petition, evaluate the percentage of owners (Section 4(1)(a)) (Figure A4-A), as follows:

- Count the total number of properties and road jurisdictions (if applicable) with the area requiring drainage (A).
- Count the number of properties and road jurisdictions within the area requiring drainage who have properly signed the petition (B)
- Calculate the percentage of owners and road jurisdictions who have properly signed the petition ($C = B/A \times 100\%$).
- A petition is valid when the percentage (C) is **greater than 50%**

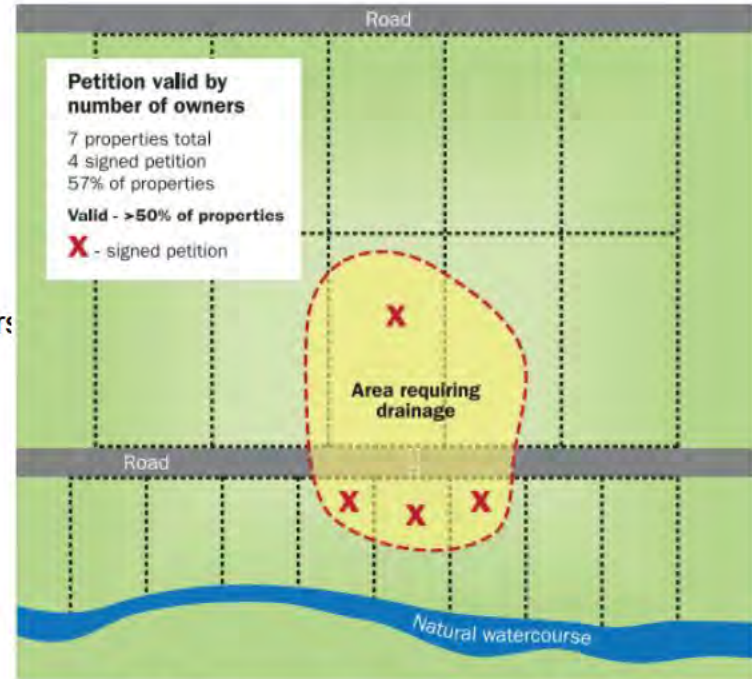


Figure A4-4. Determining the validity of a petition by percentage of owners.

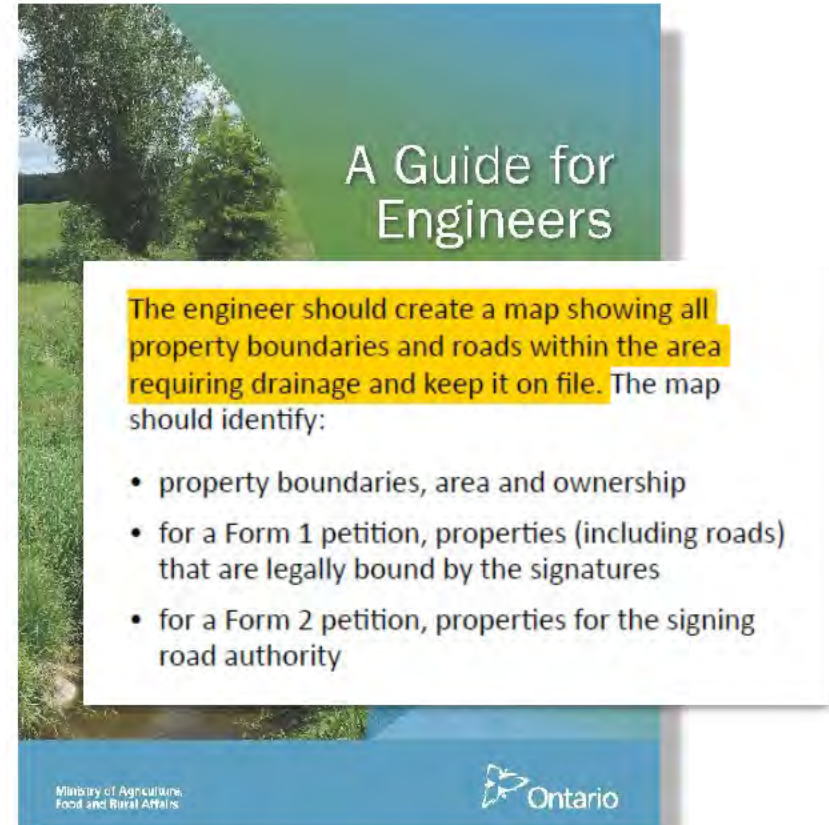
See Applicant's AOD, Tab 051

To determine the **validity of the Jananna petition**, evaluate the percentage of owners (Section 4(1)(a)), as follows:

- Count the total number of properties and road jurisdictions (if applicable) with the area requiring drainage **(2)**
- Count the number of properties and road jurisdictions within the area requiring drainage who have properly signed the petition **(1)**
- Calculate the percentage of owners and road jurisdictions who have properly signed the petition **($1/2 \times 100\% = 50\%$).**
- The petition is **invalid** because the percentage is **not greater than 50%**

If the validity of the petition is the MOST significant determination that an engineer makes for a drainage works initiated by petition, then a clear definition of the area requiring drainage is just as important. So why for this project are the details surrounding the 'area requiring drainage' so minimal and vague? It can only be one of two reasons:

- Complacency. Drainage projects under the Drainage Act are almost assured, pushed through with ease and unchallenged, so the details and/or quality of the reporting doesn't matter as much. Obvious things like 'area requiring drainage' are missed.
- Intentful unaccountability. Definitions are kept loose to give the engineer options. An opportunity to work their way out of tight spots and loosen things up to work in their benefit.



See Applicant's AOD, Tab 051

Discovery: Unauthorized Scope Creep

In the Engineer's Report there are additional works being proposed that are noticeably absent from the proposed drainage works found in the original petition filed April 26, 2021. These additional areas requiring drainage added by the Engineer include:

Jananna - West Branch Drain

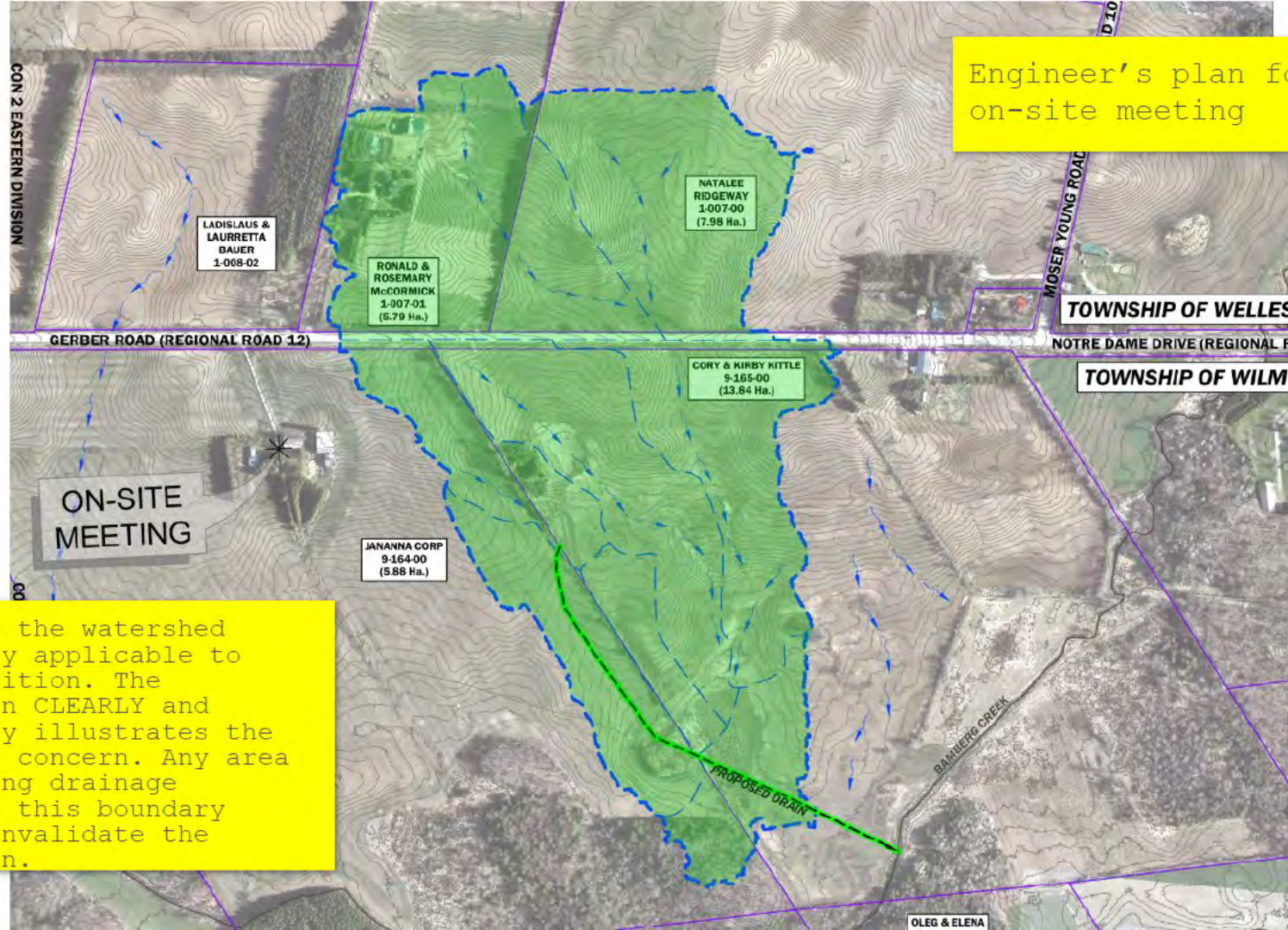
Koch-Leis Drain

Bamberg Creek Drain

"The Drainage Act does not authorize a municipality to pass a by-law for the construction of a drainage system which differs substantially in size and cost from the drain petitioned for because such a by-law is in effect based upon no petition at all."

- Referee S. Clunis

Engineer's plan for the on-site meeting



This is the watershed boundary applicable to the petition. The petition CLEARLY and visually illustrates the area of concern. Any area requiring drainage outside this boundary would invalidate the petition.

D 12 (3.14Ha.)

D+760 SRL CB

TO

SUBSURFACE
WATERS TILED
TO KOCH-LEIS DR.
(APPROX. 9.9 Ha.)

ANTICIPATED
LIMIT OF FIELD
TILE

Separate Area
No Petition
No On-Site Meeting

JANANNA CORP.
9-16-00
(45.8 Ha.)

JANANNA DRAIN
(WEST BRANCH)

KOCH-LEIS

IN

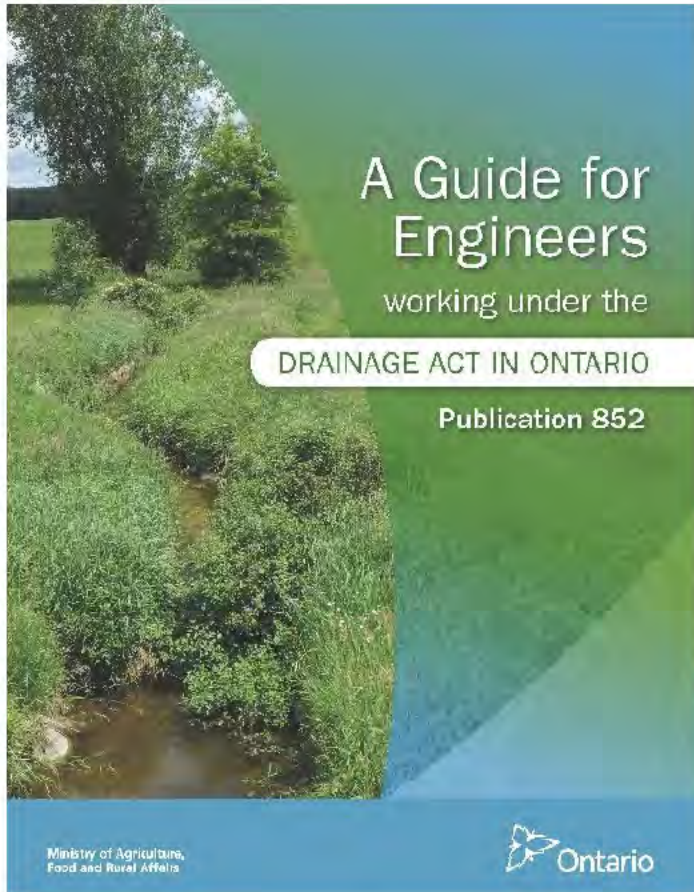
Why does this
boundary line run
perfectly with
inline the property
line when the
contour lines
suggest otherwise?

KOCH-LEIS DRAIN
REPORT (1980)
WATERSHED

JANANNA DRAIN
(EAST BRANCH)

Original Petition

B.M. 1
357.81



To better understand this you have to read the precedent setting exemplary case law examples published in *Section 4.7 of Publication 852, A Guide for Engineers Working under the Drainage Act*. These examples are provided to help the Engineer better understand the law.

Township of South Easthope vs. Township of East Zorra, 1944

The engineer in the course of doing his work thought the drainage area should be enlarged, and properly reported that fact to the council; the council thereupon instructed the clerk to add to the petition that had already been signed certain lands that were not in the drainage area as described in the petition when it was signed, and having made this unauthorized alteration in the petition they proceeded to again instruct the engineer to report on the enlarged scheme. That was all absolutely unwarranted. They had spoiled the only petition they had, and the engineer was proceeding really without any authority, just as the council was. This is a matter that goes to the basis of the whole proceeding, and the whole proceeding falls to pieces.

McKeen vs Township of East Williams, Referee S. Clunis, 1966

It follows that, in my opinion, the size, the costs, the value of the scheme and its purpose differs so materially from the work contemplated by the petition that it bears little relationship to that petition.

...the Act does not authorize a municipality to pass a by-law for the construction of a **drainage system** which differs substantially in size and cost from the drain petitioned for because such a by-law is in effect based upon no petition at all

...it seems to me to be a necessary corollary of this principle that if a sufficiently signed petition which describes a drainage area is filed, it is not to be taken as authority to proceed with any drainage work that may seem desirable in the general area of which the petitioning area is only a part.



Cory Kittel <corykittel@gmail.com>

Drainage Petition Request

Cory Kittel [REDACTED]

Fri, Jun 16, 2023 at 10:09 AM

To: Chad Curtis <chad.curtis@wilmot.ca>, John Kuntze <jkuntze@ksmart.ca>, Sharon Chambers

<sharon.chambers@wilmot.ca>

Bcc: David Marshall <dmarshall@marshallzehr.com>

Hi all,

In reference to the Engineer's Report for 'Bamberg Creek, Jananna, and Koch-Leis Municipal Drains, I've been asked if you could send me copies of the updated petition or the additional petition related to the works for the ...

**Jananna - West Branch
Koch-Leis Drain**

These additional 'areas requiring drainage' were noticeably absent from the original petition filed April 26, 2021.

Thank you

Cory Kittel
[REDACTED]

No response to this
email was received.

The Drainage Act is supposed to be a **democratic** process, so it has these built-in checks and balances to ensure those opposed to certain works have the opportunity to do so. This was overlooked here and the lands described in the report by the Engineer did not accurately describe the areas requiring drainage. His failure to do so would not afford the intended protection for those who did not sign the petition. This is a statement pulled directly from case law from the official OMAFRA Guide for Engineers, so we can safely say the Engineer had access to this information.

Timeline: Approaching the Meeting to Consider - Township Council Site Visits

- With the new significant discovery surrounding petition validity, information packages were created and distributed to the Township Councillors in-person and via email.

An Explanation:
The Invalid Petition for the
Jananna, Bamberg Creek and
Koch-Leis Municipal Drains

See Applicant's AOD, Tab 107

- Additional site tours guided by some of the watershed landowners were held for:
 - Township Councillor - Stewart Cressman - Ward 1 on June 15, 2023
 - Township Councillor - Steve Martin - Ward 4 on June 17, 2023
- All the Councillors were very receptive to this information, committed to exploring it further and discussing it with Township staff. One Councillor even congratulated the landowners on finding “the needle in the haystack”.



Cory Kittel <corykittel@gmail.com>

Bamberg Creek, Jananna and Koch-Leis Municipal Drain Project

Ken Heintz <[REDACTED]>

Mon, Jun 12, 2023 at 10:48 AM

To: "natasha.salonen@wilmot.ca" <natasha.salonen@wilmot.ca>, "kris.wilkinson@wilmot.ca" <kris.wilkinson@wilmot.ca>, Lillianne Dunstall <lillianne.dunstall@wilmot.ca>, "harvir.sidhu@wilmot.ca" <harvir.sidhu@wilmot.ca>, "stewart.cressman@wilmot.ca" <stewart.cressman@wilmot.ca>, "steven.martin@wilmot.ca" <steven.martin@wilmot.ca>
Cc: Cory Kittel <[REDACTED]>, Chad Curtis <chad.curtis@wilmot.ca>

Good morning,

Landowner email to
the Township

Next Monday, June 26th, at the Notice to Consider the Engineer's Report, the Engineer will present their findings and their proposal to address a petition regarding drainage on the Jananna property.

I am writing this email on behalf of the other landowners involved in this project. Of the 16 landowners (not including the petitioner and the Region of Waterloo) only 3 were invited to the initial on-site meeting to hear about and discuss the petitioner's drainage problem. There are so many issues and concerns with the engineer's proposal that we have not had the opportunity to talk about. There have been no meetings to discuss what could be done. The only meetings have been to inform us of what will be done in this overly extensive, expensive and unnecessary project.

For the last 30 years, my husband has farmed all of the land to the south of the petitioners property. He is extremely familiar with the creek and the drains from the northern properties that flow into the creek. We would like to invite you to meet with us in order to look at the site for yourselves to better understand what the engineer is proposing and how it is a complete waste. Their proposal is so extreme and will not accomplish what could be easily fixed by other means. Their proposal will destroy the beautiful Bamberg Creek that has been flowing through our properties for hundreds of years. The petitioner has already had their property systematically tiled. They want to correct the flow of water from a small portion of their land and this could be easily remedied in a more cost effective manner without an engineer and without the extreme destruction of surrounding lands. The engineer's proposal is a gross overstatement of the work that needs to be done.

Email part 1 of 2

So, please, meet with us and let us show you, in order to see for yourselves and understand the issue from a farmers perspective, with a conversation that can be easily understood, not engineer diagrams and measurements in a fancy booklet.

I am attaching a letter which has been signed by our group. I hope that you read it. I hope that you think about it. I hope that you can make an informed decision.

We are available to meet you individually or as a group.

Thank you,

Cathy and Ken Heintz

[REDACTED] and [REDACTED]



Landowner Letter Regarding Jananna Drain Project.pdf
623K

Email part 2 of 2

We the undersigned wish to strongly protest the proposal to put in a drainage system on the Jananna lands which would flow into Bamberg Creek and thus transform this natural area into an ecological disaster.

It should be understood that most of the landowners have not been given proper notice of the various meetings to date, especially the farmer who works the majority of the acreage in the area.

Of the 17 landowners involved, only the single petitioner is claiming any benefit to this project.

The Drainage Act specifically requires that "owners that represent at least 60% of the land in the area" be party to any petition for drainage, and that "the owners have made a decision that the drain will be of benefit to them and that the probable cost will be lower than the anticipated benefit". Neither of these requirements have been followed.

No new acreage will be opened up. No crops are currently being adversely affected. The Jananna lands are already extensively tiled. Any cost/benefit analysis just on a strictly financial basis points to a failure in benefits and an unnecessary cost. There would also be perpetual maintenance costs.

Importantly this area has been designated for many years as a Provincially Significant Wetland. Ongoing annual declarations are made by landowners promising "not to undertake any activities that degrade, destroy or result in the loss of the natural heritage feature". This project would destroy the Bamberg Creek PSW and make it a drainage ditch.

This beautiful area has also welcomed the hikers of the Avon Trail Association. A new bridge over the creek was just recently built by volunteers at their expense and dedicated in 2020.

We urgently request that the members of Council and the Mayor come to the site in the next few days for an escorted trip to see for themselves that the land is good as it is. An invitation to you will be made.

This drain proposal does not meet the requirement that the petition must be signed by the majority of the owners in the area requiring drainage or by owners that represent at least 60% of the lands in this area. The cost/benefit requirement is not met. We are asking Council to reject the petition.

SIGNED:



Landowner letter to
the Township



Cory Kittel <corykittel@gmail.com>

Thank You

Cory Kittel

Mon, Jun 19, 2023 at 4:30 PM

To: Steven Martin <steven.martin@wilmot.ca>

Cc: Elena Borissova <[REDACTED]>, David Marshall <dmarshall@marshallzehr.com>, Ken Heintz <[REDACTED]>

Councillor Martin,

We just wanted to take the time to thank you for your visit on Saturday. We appreciated the opportunity to discuss our concerns, show you around and give you a first-hand account of some of the issues we are raising, most importantly the invalid nature of the petition. You have the print out, but you can also find a digital copy of the notes here as well.

If you have any questions or need clarification on anything, please reach out at any time. Thanks again for your time. It means a lot.

Cory



jananna_invalid_petition_061623.pdf
2029K

Email to Councillor Martin



Cory Kittel <corykittel@gmail.com>

Re: Jananna Drain Petition Validity

Cory Kittel [REDACTED]
To: harvir.sidhu@wilmot.ca

Fri, Jun 16, 2023 at 1:51 PM

Hi Harvir,

Attached is an updated version of the document I had sent you earlier. Let's definitely take some time to go over this when you're available next and schedule something on-site. Seeing is believing in this case. Talk soon.


Cory
519-635-2679

On Thu, Jun 15, 2023 at 1:30 PM Cory Kittel <[REDACTED]> wrote:
Harvir,

Thanks for the quick chat. Attached are details of the big development that has recently surfaced regarding this project. We'll want to connect to talk through it, a site visit would be the best. I hope it's laid out well, but none of this stuff is simple and not complex. We've been talking to Kris about this as well and Stuart was here this morning for a quick tour.

The validity of the petition forms the basis for this whole project. If the petition is not a valid one, then there just isn't a path forward for the project.

Cory
[REDACTED]

 jananna_invalid_petition_061623.pdf
2029K

Email to Councillor Sidu



Cory Kittel <corykittel@gmail.com>

Visit Follow-Up and Document Update

Cory Kittel <[REDACTED]>

Fri, Jun 16, 2023 at 2:02 PM

To: Stewart Cressman <cressman@sympatico.ca>, Stewart Cressman <stewart.cressman@wilmot.ca>,
[REDACTED]


David Marshall <dmarshall@marshallzehr.com>

Hi Stewart,

Thanks again for joining us on-site yesterday. It was a nice morning for a walk :) I think this is truly a project where seeing is believing. I have attached an updated version of the print-out I gave you yesterday. It expands on a few other validity issues related to the project, most of which we talked about.

Thanks again. Please reach out with any questions.

Cory Kittel
[REDACTED]

 jananna_invalid_petition_061623.pdf
2029K

Email to Councillor Cressman



Cory Kittel <corykittel@gmail.com>

Updated Package: Invalid Petition


Cory Kittel [REDACTED]
To: Kris Wilkinson <kris.wilkinson@wilmot.ca>

Fri, Jun 23, 2023 at 5:57 PM

Hey Kris,

Here is an updated package. It includes a few new photos and additional details from the OMAFRA Engineers Guide. This might be helpful to the lawyer reviewing. Do you know the name of the firm/lawyer?

Cory

 jananna_invalid_petition_062323.pdf
4320K

Email to Councillor Wilkinson

Re: Jananna Drain Petition Validity

Cory Kittel <[REDACTED]>
To: Lillianne Dunstall <lillianne.dunstall@wilmot.ca>

Mon, Jun 19, 2023 at 4:45 PM

Thanks for getting back to me Councillor Dunstall. The Drainage Act is supposed to be a democratic process, so it has these built-in checks and balances to ensure those opposed to certain works have the opportunity to do so. This was overlooked here and the lands described in the report by the engineer did not accurately describe the areas requiring drainage. His failure to do so would not afford the intended protection for those who did not sign the petition. This is a statement pulled directly from case law in the notes I provided which also comes from the official OMAFRA guide for Engineers, so we safely say the engineer was provided this information.

The details here are important, so if you have any questions or require any clarification at any time, please feel free to reach out.

Cory
[REDACTED]

On Mon, Jun 19, 2023 at 3:59 PM Lillianne Dunstall <lillianne.dunstall@wilmot.ca> wrote:
Hi Cory, I just spoke with Councillor Martin and he is reaching out to the Township with this new information.

We will see what they say

[Get Outlook for Android](#)

From: Cory Kittel <[REDACTED]>
Sent: Monday, June 19, 2023 3:24:52 PM
To: Lillianne Dunstall <lillianne.dunstall@wilmot.ca>
Subject: Jananna Drain Petition Validity

CAUTION: This email originated from outside of the organization. Do not click links or open any attachments unless you recognize the sender and know the content is safe.

Hi Lillianne,

Thanks again for joining our neighbourhood gathering a few weeks ago regarding the proposed drainage project in our neck of the woods. That meant a lot to us. Since that time there has been a significant development that put into question the validity of the project. We'll want to connect to talk through it, a site visit would be the best. I hope the information attached is laid out well, but none of this stuff is simple and not complex. The details matter here. We've been talking to Kris about this as well and Stuart and Steve were here for a quick tour.

The validity of the petition forms the basis for this whole project. If the petition is not a valid one, then there just isn't a path forward for the project.

Thanks again Lillianne

Cory
[REDACTED]

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Email to Councillor Dunstall

Timeline: Submissions from Delegates Sent Ahead of the Meeting to Consider

Subject:Bamberg Creek Drainage Project
Date: Thu, 15 Jun 2023 17:45:10 -0400
From: Peter Wurtele <[REDACTED]>
To: natasha.salonen@wilmot.ca
CC: harvir.sidhu@wilmot.ca

This Bamberg Creek Drainage Project seems to have started out as an issue that could have likely been resolved between

two landowners on their own. But once the Drainage Act was brought into the picture it has allowed various forces at large

to grow this original small issue into a monster- very much larger in scope and in overall cost and very controversial.

A list of concerns has been sent separately in a more general letter from us all, so for the sake of clarity, I won't repeat

them here.

But 16 of the surrounding 17 involved landowners are very much against the project and see no benefit that is worth investing so much money into.

It is even unclear how the petitioner as a farmer is getting any particular payback from the investment.

We are in a similar position to the RoadRunner who has mistakenly run out over the cliff

only to find that the only thing to save him from the impact in the canyon floor below

is a very expensive parachute.

As Councillors of our Township you have the power to help us back away from the cliff onto the solid ground where we were.

The farmland involved is being satisfactorily used as it is, and though a drainage project might give the possibility of an

occasional benefit from year to year, it really can't do that in a way which has any economic sense to it.

Sometimes it's best to let nature cope without intervention.

June 16, 2023

To the Mayor and Councilors of Wilmot Township,

I am writing this letter in objection to the petition for the proposed drainage works for the Bamberg Creek, Jananna and Koch-Leis Drain.

My name is Ken Heintz and I live at [REDACTED]. I farm and work all of the land around the Bamberg Creek [REDACTED] of the petitioner's farm. I am very familiar with that portion of the creek and the Koch-Leis drain. I've lived here for over 30 years and the Bamberg Creek has never changed. There is no silt build-up because it runs too quickly.

In 2012 and again in 2018, the petitioner requested that the Koch-Leis drain be cleaned out and the creek be dug to correct the flow of water in the creek. The dirt removed from the creek was piled on the south side of the creek bank both times. It created a swale making the land behind the swale unworkable. There was about 20 acres that all surface drain to the Koch-Leis drain. This makes common sense to the engineer to trap water into someone else's field and make it unworkable? I had to install tiles into the field so that the flooded land I was working could be farmed. Both of those years, the flow of water was being impeded by beavers that had built a dam further down the creek.

Prior to starting this petition there was another beaver dam creating the same issue. The petitioners saw the beaver dam in the creek and instead of having it removed, started this petition to dig the Koch-Leis drain and Bamberg Creek. The beavers have been removed. The creek flows fine and there are no drainage issues.

The west branch of the Jananna drain runs from Gerber Road to the Koch-Leis drain and into Bamberg Creek draining water from the area on the north side of Gerber Road. This area is pure sand and does not hold water. Also, the entire north side of the Jananna land is all sand. They hired a drainage contractor to systematically tile their farm. He drained the south side but did not put tiles in the north because it's pure sand, doesn't hold water and doesn't need tiling. So, installing a concrete sealed tile makes absolutely no sense when you don't have a water problem.

The east branch of the Jananna drain flows into [REDACTED] pond. The southeast back corner of the Jananna farm is not drained into the systematic tile and needs to go across [REDACTED] land. Instead of this extensive proposal by the engineers, a 6" plastic perforated tile would be ample to drain the two acres. There is 3' of drop in the creek with is plenty of depth for a 6" plastic tile. The Bamberg Creek does not need to be dug.

I think this proposal is a complete waste of money. There are many alternatives that should be explored that would cost a fraction of the amount of this proposal.

From: [REDACTED]
To: [Natalia Sarajani](#); [Stewart Cressman](#); [Kris Wilkinson](#); [Henry Sidhu](#); [Lillian Dunstall](#); [Steven Martin](#); [Clerks](#)
[Harold O'Grady](#); [Jeff Molendius](#)
Cc: [jnowak@wellesley.ca](#); [sawyer@wellesley.ca](#); [jedd@wellesley.ca](#); [chick@wellesley.ca](#)
[dscott@wellesley.ca](#); [Tim Van Hille](#)
Subject: Bamberg Creek, Jananna and Koch-Leis Drain Situation - Need For Better Solutions
Date: June 26, 2023 1:41:16 PM
Attachments: [May 29 2023 Township of Wilmot Jananna Drain v2.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open any attachments unless you recognize the sender and know the content is safe.

To Wilmot Mayor Salonen, Councillors, and Staff.

Several weeks ago I appeared before Wilmot Council as a long-time area environmental advocate to express serious concerns about the Bamberg Creek, Jananna and Koch-Leis Drain project. I have attached my delegation again below. It seems that there have been even more concerns and issues raised about the destruction of these creeks and streams since that presentation.

It is simply absurd to be excavating and destroying beautiful natural waterways into concrete and tile lined ditches that will expedite the flow of agricultural run-off towards already flood-prone areas of Wilmot Township like New Hamburg. In this era of global climate change, we need to be slowing down water run-off, allowing infiltration and absorption, and not loading natural watercourses with fertilizer-laden agricultural run-off that has caused massive algae blooms and multiple other issues in other places across our province.

As I pointed out in my presentation, other communities such as Kitchener are winning awards for removing drainage ditches such as this and restoring them back to naturalized waterways.

We have learned over the decades from past mistakes and that there are far better ways to manage drainage, run-off, and natural areas than destroying our creeks and waterways to turn them into unnecessary and quite harmful drainage ditches.

This project appears to be strongly opposed by every impacted Wilmot Township resident and property-owner and only seems to be supported by the proponent. In this case, with no benefits for others (only loss and destruction) at a minimum all costs under the Drainage Act if it is being invoked to force this through should be the responsibility of the proponent - and found to be the responsibility of the proponent - likely making the project unviable.

This isn't the only option for water management available to the proponent and as I mentioned during my recent presentation there are numerous best practices such as retention ponds with water recycling, ALUS (Alternative Land Use Services), rural water quality programs being heavily utilized by progressive farmers and landowners across Waterloo Region and Ontario without resorting to the draconian and outdated Drainage Act.

I urge everyone involved to work to implement better solutions - it is simply absurd to be wasting so much money destroying our natural areas, streams, and creeks and to be creating decades of future liabilities that could cost Wilmot Township, Wellesley Township, and citizens so dearly.

Sincerely,

Letter to the Mayor and Councillors of Wilmot Township June 8th, 2023

We the undersigned wish to strongly protest the proposal to put in a drainage system on the Jananna lands which would flow into Bamberg Creek and thus transform this natural area into an ecological disaster.

It should be understood that most of the landowners have not been given proper notice of the various meetings to date, especially the farmer who works the majority of the acreage in the area.

Of the 17 landowners involved, only the single petitioner is claiming any benefit to this project.

The Drainage Act specifically requires that "owners that represent at least 60% of the land in the area" be party to any petition for drainage, and that "the owners have made a decision that the drain will be of benefit to them and that the probable cost will be lower than the anticipated benefit". Neither of these requirements have been followed.

No new acreage will be opened up. No crops are currently being adversely affected. The Jananna lands are already extensively tiled. Any cost/benefit analysis just on a strictly financial basis points to a failure on benefit and an unnecessary cost. There would also be perpetual maintenance costs.

Importantly this area has been designated for many years as a Provincially Significant Wetland. Ongoing annual declarations are made by landowners promising "not to undertake any activities that degrade, destroy or result in the loss of the natural heritage feature". This project would destroy the Bamberg Creek PSW and make it a drainage ditch.

This beautiful area has also welcomed the hikers of the Avon Trail Association. A new bridge over the creek was just recently built by volunteers at their expense and dedicated in 2020.

We urgently request that the members of Council and the Mayor come to the site in the next few days for an escorted trip to see for themselves that the land is good as it is. An invitation to you will be made.

This drain proposal does not meet the requirement that the petition must be signed by the majority of the owners in the area requiring drainage or by owners that represent at least 60% of the lands in this area. The cost/benefit requirement is not met. We are asking Council to reject the petition.

SIGNED: [REDACTED]

An Explanation:

The Invalid Petition for the
Jananna, Bamberg Creek and
Koch-Leis Municipal Drains

See Applicant's AOD, Tab 107

Cost / Benefit Analysis

Jananna / Bamberg Creek /
Koch-Leis Municipal Drains

See Applicant's AOD, Tab 110

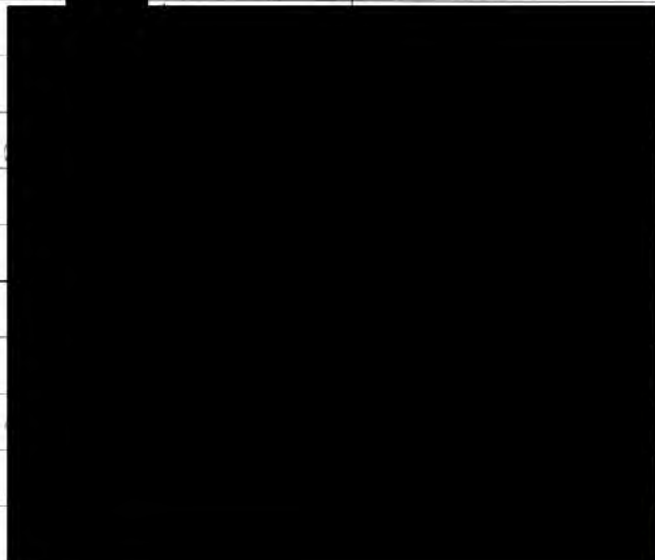
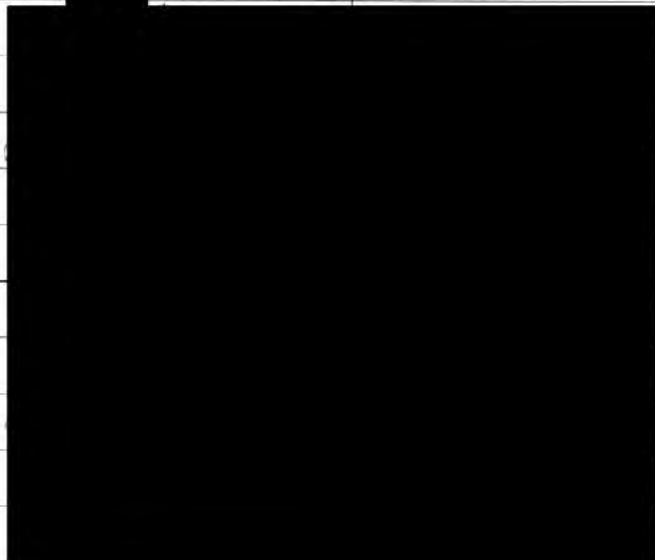
Petition Against Jananna Municipal Drain

The undersigned shows collective opposition of the Jananna Municipal Drain project based on the following...

We do not see the need for such a project

We do not see the benefit individually or collectively of this project

We do not want to participate in the cost involved with this project

Printed Name	Signature	Address	Date
Ken Heintz			Jan 21/23
Cathy Heintz			Jan 21/23
Peter Schneider			Jan 21/23
Dagmar Schneider			Jan 21/23
Oleg Borisso			Jan 21/23
Cory Kittel			Jan 21/23
Ladislav Bauer			Jan 21/23
Kirby Kittel			Jan 21/23
Elena Borissong			Jan 24/23
Jeff Cressman			Jan 26/23

From: [REDACTED]
To: Candice Greenley
Cc: to: Stephen Brickman; John Kuntze; Chad Curtis
Subject: Fwd: Bamberg Creek + Field Overflow Flooding
Date: June 26, 2023 9:39:19 AM

CAUTION: This email originated from outside of the organization. Do not click links or open any attachments unless you recognize the sender and know the content is safe.

Hello Again Candice,

Please see Lucy's email with attached photos below.
Thank you.

Regards,
Chris Gawron

----- Forwarded message -----

From: Lucy Gawron <[REDACTED]>
Date: Sat, Apr 22, 2023 at 3:01 PM
Subject: Re: Bamberg Creek + Field Overflow Flooding
To: <Stephen.Brickman@headwaveng.ca>
Cc: Theresa <[REDACTED]>, [REDACTED] <[REDACTED]>, Christine Gawron <[REDACTED]>

Hi Steve,

Here are a few photos I took around March 21st and on Good Friday, April 7th of 2023. The one photo was taken inside the corner of our bush. It shows some water over flow from Bamberg Creek but it was far worse many times over during Spring thaw, for many years. It's always like a "lake effect" over flow. The other field shot shows some over flow from Bamberg Creek as well if you look closely at it from the right corner towards the bush right side. I saw more over flow this year, but I could not make it down as it was raining and it was difficult for me to walk the fields. Hope these photos will be useful for counsel.

Regards,
Lucy

See Applicant's AOD, Tab 028

For the Meeting to Consider an email was sent to the Township on June 26, 2023 from Jananna with images clearly showing their area of concern, which is the well defined low-lying basin on the southeast side - the clear and unquestionable area requiring drainage. What they did not specify in the email is that many of the images are of the Applicant's property, so it's misleading.

What's important to note here is the timing - it's Spring thaw. This is the only time water appears in the area outlined. Like with all farm fields this time of year, water will collect, even those with the most sophisticated drainage.

Email sent from Jananna to the Township/Engineer for the Meeting to Consider. Email continued with all the photos contained within...

Photo Credit: Jananna Corp.

Fence / Property Line

Applicant Property

Jananna Property

Fence / Property Line

Applicant Property

Jananna Property




Photo Credit: Jananna Corp.

The standing water shown here in the background is 100% on the Applicant property.

Photo Credit: Jananna Corp.

The standing water shown here is 100% on the Applicant property.



Photo Credit: Jananna Corp.

Fence / Property Line

Jananna Property

Applicant Property



Photo Credit: Jananna Corp.

Fence / Property Line

Applicant Property

Jananna Property

From March 21 to April 7, 2023 you can really start to see the water dissipate. After the Spring thaw, there is no standing water here the rest of the year.

Jananna Property

Fence / Property Line

Photo taken by Applicant
March 27, 2023. This is
what the area actually
looks like.

Applicant Property

Timeline: Meeting to Consider

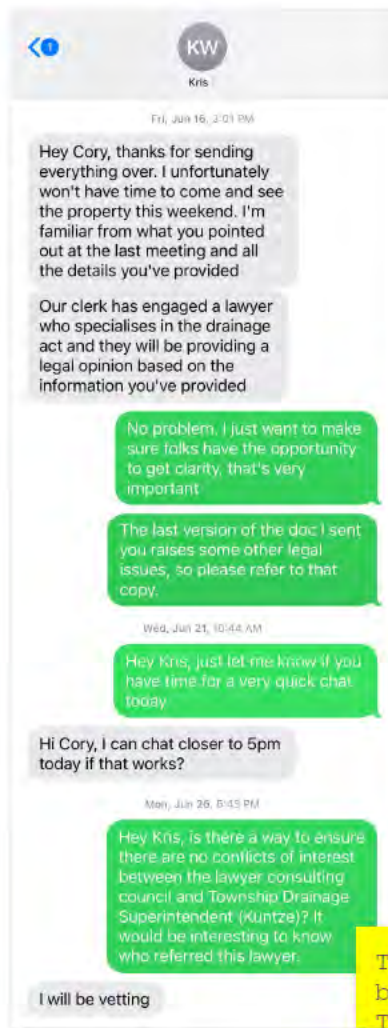
- The Meeting to Consider was scheduled June 26, 2023 held in Township Council Chambers.
- With the all communications sent ahead of the meeting - info packages, on-site meetings and pre-meeting documentation sent to the Township, everyone involved including the Engineer were well informed of the key issues. The non-petitioner landowners were eagerly anticipating answers at this meeting.
- The issues raised regarding petition validity were enough of a concern that the Township and/or Engineer brought in legal counsel to consult with Township Council.
- The first item on the agenda was a closed meeting between Township Council and lawyer, Paul Courey.

1. **MOTION TO CONVENE INTO CLOSED MEETING**

RECOMMENDATION

THAT a Closed Meeting of Council be held on June 26, 2023 at 6:00 p.m. in accordance with Section 239(2)(f) of the Municipal Act, 2001 to consider the following:

- Drainage Matter - 239(2)(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.



Text communication
between Applicant and
Township

- Talking with Councillor Wilkinson over phone (June 21) and text (June 16-26) ahead of the meeting, there were some remarks about legal counsel potentially addressing all the meeting attendees and a potential report detailing their findings - no such discussion or report ended up being produced.
- Councillor Wilkinson commented on the fact that the Councillor's will likely have to side with what the lawyer suggests, worried that if they disregard their advice, they could be liable in some way.
- During this call the Applicant voiced his concern about a conflict of interest and asked whether or not the lawyer was recommended by the Drainage Superintendent or Engineer and if there is some history or working relationship between them. Councillor Wilkinson was unaware but committed to look into it during the call and confirmed via text.
- The Applicant was concerned that the lawyer was essentially brought in to sway council.

- The open portion of the Meeting to Consider commenced on June 26, 2023 at 7pm following the closed meeting.
- The meeting was promoted as *“Assessed landowners and all other affected parties will be given the opportunity to ask questions and voice any concerns relating to the Report. The Drainage Engineer will respond to any questions that may arise from delegations and/or Council.”*
- That was definitely not the case. Only pre-registered delegates were given 7-minutes to speak, and were promptly cut off after that time.
- Even though it was the elephant in the room, even though there was a closed meeting on the issue, even though delegates were raising the issue during their time to speak, the Engineer did not touch the topic of petition validity or the area requiring drainage - no explanation, no defence, nothing - just completely avoided the topic even though this was THE time to do that. The delegates were given no further time to speak, ask questions or follow-up.

- Even the Councillors avoided the topic - as much information as they had ahead of time, not one of them challenged the Engineer to answer the question. The only logical conclusion is that they were instructed not to during the closed session, as it would put into question and cast doubt on the Engineer's report and credibility, which they don't want to do.
- The meeting felt like we were just going through the motions at that point as you could see that the Councillors were not asking any questions of anyone.
- This was a prime example of how the process at this level is unfairly stacked against those not in favour - the Township staff, Drainage Superintendent, Council, Engineer - all playing for the same team, all pushing in the same direction.
- The only glint of an answer the attendees received came at the end of the meeting from a statement made by one of the Councillors, that you can only assume came from their lawyer, Paul Courey.

- The only statement verbally provided by the Township at the end of the Meeting to Consider. Below is the transcribed statement - June 26/2023

"The understanding of the facts as presented to this point is that through the drainage act and a petition being submitted it then creates an administrative course for council to carry out the requirements of a provincial piece of legislation which is in essence what we are tasked with doing. Through that the first step is that an engineer is appointed and the engineer is granted quasi-judicial powers, in essence their job is to assess the situation and ultimately decide whether or not the petition as presented initially is valid or invalid.

Through fact checking and sound advice I can confirm that one signature does indeed make a petition valid. The reason the drainage area grew is due to Section 32 of the Drainage Act which reads "Where, in the opinion of the engineer, the cost of continuing a drainage works to a sufficient outlet or the cost of constructing or improving a drainage works with sufficient capacity to carry off the water will exceed the amount of injury likely to be caused to low-lying lands along the course of or below the termination of the drainage works, instead of continuing the works to such an outlet, or making it of such capacity, the engineer may include in the estimate of cost a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage works, and in the report the engineer shall determine the amount to be paid to the owners of such low-lying lands in respect of such injuries."

“The best interpretation I heard of this particular clause is in essence that an engineer will address the issues in the low-lying area but can’t just leave the water to drain and hope for the best. They have to cure the situation as a whole which requires upstream and downstream modifications of the land and the drainage so that they can cure the problem, not pass it on so that next season the next farm requires drainage or after that the next farm requires drainage. That’s the cause as to why the drainage area has grown to 220 hectares. The petitioner has every right to build berms and block the water from entering their property which would then cause additional problems for surrounding neighbours and farms. So to prevent that from happening and to also prevent water and fertilizer and other waste from running off into these creeks and drainage outlets, the role of the petition is to address all of that.”

“The role of the Township in this case is to advance and perform the administrative tasks set out by the Drainage Act. We are not technical experts. We are not engineers. But our task is ultimately to advance the process. And another thing we have to weigh is also the needs of the few versus the needs of the many. And ultimately turning this down could put the Township in a situation where we would face liability, and the costs to that are unknown. I cannot look a taxpayer in the face and tell them that I potentially need to raise their taxes to cover the costs and damages due to a situation that we created by putting us in a liable situation. So based on the facts presented the best supported decision is one in which council ultimately should uphold the existing petition. And advise that if there are parties in opposition, there are routes to appeal, whether that be through Court of Revision, through a proper appeal channel which could in turn be a Drainage Referee or Drainage Tribunal. That is all I have to say on this.”

Township Councillor - Kris Wilkinson - Ward 2

Timeline: Post Meeting to Consider



Cory Kittel <corykittel@gmail.com>

Follow-Up to Monday Meeting to Consider

Cory Kittel

Fri, Jun 30, 2023 at 2:40 PM

To: Kris Wilkinson <kris.wilkinson@wilmot.ca>

Cc: Ken Heintz, Ken and Cathy Heintz, David Marshall

<davidmarshall1969@gmail.com>, Oleg Borisov, Peter Wurtele

Barbara Wurtele, David Marshall <dmarshall@marshallzehr.com>, Elena Borissova

Hi Kris,

I think we just needed to take a few days to digest the outcome of Monday's meeting, but now it's time to follow-up and dig into the details of the decision made.

Correct me if I'm wrong, but was this your first real test representing a large number of your constituents in Ward 2? I think you heard loud and clear where the majority stand on this issue.

Like you said Kris, we're just after the right decisions. If you could provide us some insight into how Monday's decision was the right one and how it came to be, we all might feel a bit better. It appeared the decision made was a confident one, so it should be easy to explain since it was clearly determined before the public meeting what the outcome would be. Part way through the open meeting you could see nobody on council was asking questions, not even of the Engineer who presented nothing of substance regarding the big issues. I think our concerns were loud and clear ahead of the meeting, so how come the Engineer was not put to task?

I personally am still trying to unpack and make sense of the few details you provided at the end of the meeting. It was clearly nothing that came from or backed by the Engineer's report or presentation.

Can you please try to re-explain what you said during the meeting?

How do you feel the original petition remained valid and only requires one signature?

I also wanted to ask how the vetting of the lawyer went, whose advice was taken to the letter. What vetting was conducted? Was there any potential conflicts with the Engineer and Township Drainage Superintendent who clearly have an agenda to advance these works regardless of validity.

I think what we're looking for at this stage is simply an explanation, openness and transparency. I think that at least we are owed.

I've included our smaller working group here, but the larger group is eagerly awaiting answers as well.

Cory

This was an email sent after the meeting to get more information and clarification regarding the decision.

There was no response received from this email so the Applicant followed up via text on July 4 and did receive a response July 6.

< KW
Kris

Thu, Jul 6, 11:37 AM

Hi Cory, I got your email. Not sure I can speak too much to it. In essence the application is seen as valid and the townships best position was to advance it

The best course of action is to pursue appeal via tribunal or referee

Hey Kris, who could best explain how Council got to that decision? Based on the legal and technical merits of the validity concerns, who can walk us through it. I thought the lawyer was to explain all this.

Lawyer gave us advice in a closed session. I was mistaken when I mentioned he would give a public overview.

In essence the Act is designed in a way that gives the Engineer quasi judicial powers and essentially makes the call on the petition being valid.

The Act also protects petitioners from having the petition quashed

Which is basically why 4.1 doesn't apply with multiple land owners.

Case law is full of quashed petitions and engineers making mistakes

The township is truly an administrative tool for the Act. Its unfortunate the situation it puts the township in.

But the costs to deny it and appeal and the potential for liability make it an untenable position for the township

We don't decide validity and we don't decide technical aspects. That's was made extremely clear by legal advice

I would agree except where the petition is invalid

Text communication
between Applicant
and Township
Councillor K.
Wilkinson

And that's what needs to be taken up with the tribunal or referee and would need supporting evidence from another professional.

The validity of the petition in this case is that the land owner submitting the petition is entitled to Drainage. The costs grew because under the section I had quoted, it outlines that the Engineer has to cure the overall problem not pass it on

That's why the multiple owners don't apply according to legal advice

Well if that were the case there would be no appeals, tribunals, referees, case law.... the Guide Book also says differently.

Case law is law and all these scenarios, just like mine, have already been determined.

Correct. However, that's not for the township to interpret or try and handle. I personally think you've got something to build on. That being said, you should seek legal and engineer opinions

Thu, Jul 8, 10:36 PM

Hey Kris, above you mentioned 'a section you quoted'. What section are you referring to?

btw - thanks for getting back to us on this stuff. It helps to get some insight.

Fri, Jul 7, 9:05 AM

I'm happy to help. I wish I could just make this easy for you guys without having to balance the big picture side of it.

I'm at my office this morning so I'll get you thr section from my notes when I get home

Fri, Jul 7, 2:50 PM

That would be great. Thanks.

Mon, Jul 10, 5:29 PM

Kris, any references or notes would be helpful. Was there a report provided?

Wed, Jul 12, 12:58 PM

Hi Cory, I can't discuss the details of a closed meeting. What I can do is point you to section 32 - which is why the project grew. Also the Engineer is granted quasi judicial powers. They essentially determine validity.

Sorry for the delay

Tue, Jul 18, 1:47 PM

Are you sure that's the right section? I'm aware of section 32. It basically says the engineer can compensate the petitioner (one time) if it's going to cost too much to fix or construct the drainage works. The engineer chose not to do that, but probably should have in this case.

Tue, Jul 18, 4:38 PM

It's allowance for damage due to insufficient outlet

So because the outlet had to be deepened and modified it grew to other properties

Basically the topography didn't allow for sufficient drainage in to the Creek from their property is what the Engineer is saying. Then because the Creek has to be looked at up stream and downstream it adds landowners

End of message

Thu, Jul 6 at 11:38 AM

Hi David, I'm sorry I didn't see this message. I appreciate your words.

In essence the application is valid because the Engineer is granted quasi judicial power once appointed.

The best course of action for the township is to advance the application and refer anyone objecting to appeal

It really comes down to the Drainage Act. It's a beast

This is helpful. I'd say I was incredibly underwhelmed with the engineer. I was not impressed at all.

Where I disagree with you is that the drainage act is very clear on this specific topic.

Under option A) in part 4.1 the application fails.

If you go with part B then they have to prove the issue was 60 percent of the land area. Also fails.

The system that you are being forced to work with is clearly broken. I would anticipate an appeal.

In your comments in the meeting you specifically outlined that one land owner can proceed without cooperation of others. I just do t see that anywhere in the Act. Let me know.

Thanks for the reply
Dave

I agree on the surface, the Act looks like section 4.1 would need multiples. However, there are clauses that support the petitioner built into the Act. It's set up in a way so the petition can't be squashed.

The system is tough on us because in reality we are just an administrative tool of the act

If there are any of those places that support that I think it would be great to supply those. Reasoning is to stop an unnecessary appeal. If there are clauses in there that do what you say then that is fact and truth. If that is the case I think people will stop this process.

Text
communication
between assessed
Wellesley
landowner David
Marshall and
Township
Councillor K.
Wilkinson

July 6/2023

No
reasoning
supplied



A Guide for Engineers

working under the

DRAINAGE ACT IN ONTARIO

Publication 852

Ministry of Agriculture,
Food and Rural Affairs



See Applicant's AOD, Tab 053

8.6 Allowances for Insufficient Outlet (Section 32)

Drainage systems must be taken to a sufficient outlet (Section 15), with one exception. A sufficient outlet is defined as a point at which water can be discharged safely so that it will do no damage to lands or roads. The exception to this requirement is to provide compensation to the affected property owners instead of taking the drain to a sufficient outlet (Section 32).

It may be less expensive to provide an allowance to compensate property owners rather than to construct a drain to a sufficient outlet for situations such as:

- a drain that would continue through a wetland or woodlot
- a drain that would require addressing conditions imposed by regulatory agencies
- land periodically used for water storage by design or agreement

Allowances for insufficient outlet are provided only once to affected properties unless further improvements on the upstream drainage works are undertaken. When drain improvements are considered, only the incremental increase in potential damages should be compensated.

Compensation paid for insufficient outlet is normally not more than the market value of the land that would be subject to increased flooding. Provide an allowance for the incremental increase in damages caused by the drainage system as determined through a hydrologic and hydraulic analysis. The frequency and extent of incremental flooding, land use and crop loss values are important considerations in determining compensation.

Allowances for an insufficient outlet can address:

- an insufficient outlet related to an existing drainage works or
- an anticipated insufficient outlet resulting from a new upstream project


Part A, Chapter 9 presents how the difference between these two situations of insufficient allowances is assessed.

With the limited rationale provided at the end of the Meeting to Consider, especially the use and reference of Section 32 of the Drainage Act, further exploration was required.

- The Meeting to Consider and the responses following left many of the land owners scratching their heads. The closed meeting was clearly being used as a shield for any real answers or discussion.
- The particulars around the issue of petition validity was not touched.
- Section 32 was referenced, but in a way that made little sense. They said Section 32 is the reason the project grew, but in our case, Section 32 describes an option where the Engineer could have scaled down the project.
- When the Engineer made the assessment of an insufficient outlet, there was an option to compensate the impacted landowners without having to carrying out the drainage works, and without having to reconstruct Bamberg Creek - a terribly expensive proposition and something the landowners don't want or feel is needed.
- From a cost-benefit point of view this clearly would have been the best option. With such a small area not systematically tiled, little evidence of significant impact, no case can be made to suggest the outlet improvements would have been the more 'affordable' option rather than just compensation to the petitioner, especially when no benefits of the works have been proven or quantified.

Timeline: Court of Revision

- The Court of Revision was more of the same. Just going through the motions with all appeals denied.
- It was the Engineer re-reading the report.
- One of the more memorable moments of the meeting, and one that is reflective of the process, was in the lobby after the meeting when the non-petitioner land owners had to walk past the Drainage Superintendent and Petitioner members enjoying a gifted treat the Petitioner had brought in. It was a celebratory act in the face of the other landowners.
- The real insight came after the meeting during the parking lot conversations. The admission from Councillor Wilkinson that even though they may disagree with the Engineer, they can't cast doubt on him. It's a bad look and may come back on them.
- He was sympathetic and agreed we have a case, but that this is being pushed through so it can be dealt with in the appeals process.

	
Court of Revision Meeting Agenda Court of Revision Meeting	
Wednesday, August 16, 2023 5:30 p.m. Council Chambers - Hybrid 60 Snyder's Road West Baden, Ontario N3A 1A1	
This meeting will be held in-person and electronically in accordance with <u>Section 238 (3.3) of the Municipal Act, 2001</u> . Please subscribe to the Township of <u>Wilmot YouTube Channel</u> to watch the live stream or view after the meeting. <u>Delegations</u> must register with the Legislative Services Department. The only matters being discussed at this meeting will be those on the Agenda.	
	Pages
1. CALL TO ORDER	
RECOMMENDATION	
THAT the Court of Revision for Bamberg Creek, Jananna, and Kodj-Leis Municipal Drain 2023 convenes at 5:30 p.m. on August 16, 2023.	
2. MOTION TO APPOINT CHAIR	
3. OPENING REMARKS BY THE CHAIR	
4. WRITTEN APPEALS FROM ASSESSED PROPERTY OWNERS	
4.1 Written Appeal from Peter and Dagmar Schneider	3
4.2 Written Appeal from Ken and Cathy Heintz	5
4.3 Written Appeal from Ladielous Bauer	6
4.4 Written Appeal from Justin and Natalie Miller (Ridgeway)	7
4.5 Written Appeal from Cory Kittel	8
4.6 Written Appeal from Oleg Borisov	9



Court of Revision Meeting Agenda Court of Revision Meeting

Wednesday, August 16, 2023

5:30 p.m.

Council Chambers - Hybrid

60 Snyder's Road West

Baden, Ontario

N3A 1A1

This meeting will be held in-person and electronically in accordance with Section 238 (3.3) of Municipal Act, 2001. Please subscribe to the Township of Wilmot You Tube Channel to watch live stream or view after the meeting.

Delegations must register with the Legislative Services Department. The only matters being discussed at this meeting will be those on the Agenda.

1. CALL TO ORDER
RECOMMENDATION
THAT the Court of Revision for Bamberg Creek, Jananna, and Koch-Leis Municipal Drain 2023 convenes at 5:30 p.m. on August 16, 2023.
2. MOTION TO APPOINT CHAIR
3. OPENING REMARKS BY THE CHAIR
4. WRITTEN APPEALS FROM ASSESSED PROPERTY OWNERS
 - 4.1 Written Appeal from Peter and Dagmar Schneider
 - 4.2 Written Appeal from Ken and Cathy Heintz
 - 4.3 Written Appeal from Ladislaus Bauer
 - 4.4 Written Appeal from Justin and Natalie Miller (Ridgeway)
 - 4.5 Written Appeal from Cory Kittel
 - 4.6 Written Appeal from Oleg Borissov
5. LATE APPEALS FROM ASSESSED PROPERTY OWNERS
(Advisement of Verbal Appeals from Assessed Property Owners)

See Applicant's AOD, Tab 011

From: Thorisa Bauer [REDACTED]
Sent: Saturday, August 5, 2023 8:49 AM
To: Chad Curtis <chad.curtis@wilmot.ca>
Subject: Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023

CAUTION: This email originated from outside of the organization. Do not click links or open any attachments unless you recognize the sender and know the content is safe.

Chad Curtis
Deputy Clerk
Township of Wilmot

Dear Mr. Curtis,

I am writing with regards to the proposed construction and improvement of the aforementioned drain.

I'm appealing to the Court of Revision on the grounds that my property has been assessed an amount that is too high. In fact, I don't see any reason why I should be paying any towards this project. I have lived across the road from the Gawron farm since Nov. My wife and I spoke many times over the years with both Jan and Anna and our children together. Neither of them ever mentioned any problems with water or drainage or unable to work any part of their land because of it. My understanding is that the Bamberg creek has been unaltered since before the town of Bamberg came into existence and that there is no problem with the existing two drains.

No part of the creek is on or even close to my property. In fact, the closest my property to the creek would be at least 1000 meters, which is east of my property where the road goes over Bamberg Creek. No water from my property could ever end up in that creek.

I believe this assessment on my property is completely unfair and unreasonable. No has absolutely nothing to do with the proposed work and it's completely ludicrous unfounded for the Gawrons to state this project will increase my property value. I respectfully ask the Court to dismiss completely this assessment on my property.

Would you please confirm receipt of my email.

Sincerely,
Ladislaus Bauer
[REDACTED]

From: [REDACTED]
Sent: Saturday, August 5, 2023 8:51 PM
To: Chad Curtis <chad.curtis@wilmot.ca>
Subject: Appeal to the Court of Revision re: Bamberg Creek, Jananna, and Koch-Leis Municipal Drains

CAUTION: This email originated from outside of the organization. Do not click links or open any attachments unless you recognize the sender and know the content is safe.

We wish to appeal the Bamberg Creek, Jananna and Koch-Leis Municipal Drains on the grounds of our property # [REDACTED] being assessed an amount too high, and the property at 9-164-00 (Jananna Corp.) being assessed an amount that is too low.

As outlined on page three of the Engineer's report, our land, along with others north of Garber Rd is sandy soil with above average properties for infiltration. The engineer's report fails to explain how water from our dry, well-draining land would be contributing to the drainage concerns at Bamberg creek. It is unclear how and if the properties of our soil were taken into consideration when assessing the outlet liability.

Further, as stated by the Engineer at the Township council meeting on June 20, our property will see no benefit from the municipal drain project. Jananna Corp who will receive direct financial benefit from the drain and who initiated the petition should therefore be assessed to a higher contribution of the project.

In attending council meetings and reviewing the Engineering report, we do not see the justification for our property being included in this municipal drain project.

Austin and Natalie Miller (Ridgeway)

For the agenda and letters
from landowners See
Applicant's AOD, Tab 011

Discovery: Field Conditions & Improvements

Photo taken
July 7/2018


Jananna Property -
Southwest Side - Facing
South

Field Tile Just Installed
in May 2018



Jananna Property -
Southwest Side - Facing
South


Photo taken
July 26/2023



This area is
eventually made
into workable land
due to the field
tile.

Jananna Property -
Southwest Side - Facing
South

Photo taken
Jan 01/2024



Farm land cleared
and back into
workable land.





Photo taken
Jan 01/2024

Jananna Property -
Facing Southwest Side

An aerial photograph showing a property with a forested area, a body of water, and a large field. The forested area is a dense green patch in the center-left. To its left is a body of water with some snow along the shore. To its right is a large, brown, plowed field. The foreground shows a mix of brown vegetation and snow. The sky is not visible.

Jananna Property -
Southwest Side - Facing
West - Early Spring Thaw

Photo taken
Feb 12/2024

Jananna Property -
Southwest Side - Facing
West

Photo taken
Nov 03/2023

Jananna Property -
West Side - Harvest
Season

Photo taken
July 31/2023






Photo taken
Feb 12/2024

Jananna Property -
West Side

Jananna Property -
North West Side

Photo taken
July 26/2023 -
Harvest Season

Road Culvert


An aerial photograph showing a large, flat area completely submerged in water, indicating a significant flood. A road with a yellow center line runs diagonally from the bottom right towards the top right. To the left of the road, a small house is partially visible, surrounded by dark evergreen trees. In the background, a long, low building, possibly a barn or warehouse, sits on a slightly elevated patch of land. The sky is overcast, and the water reflects the grey light. A yellow text box in the top right corner provides the date of the photo. A white arrow points to a specific spot in the water near the road.

Photo taken
Jan 01/2024

Road Culvert

Jananna Property -
North West Side

Jananna Property -
Northwest Side

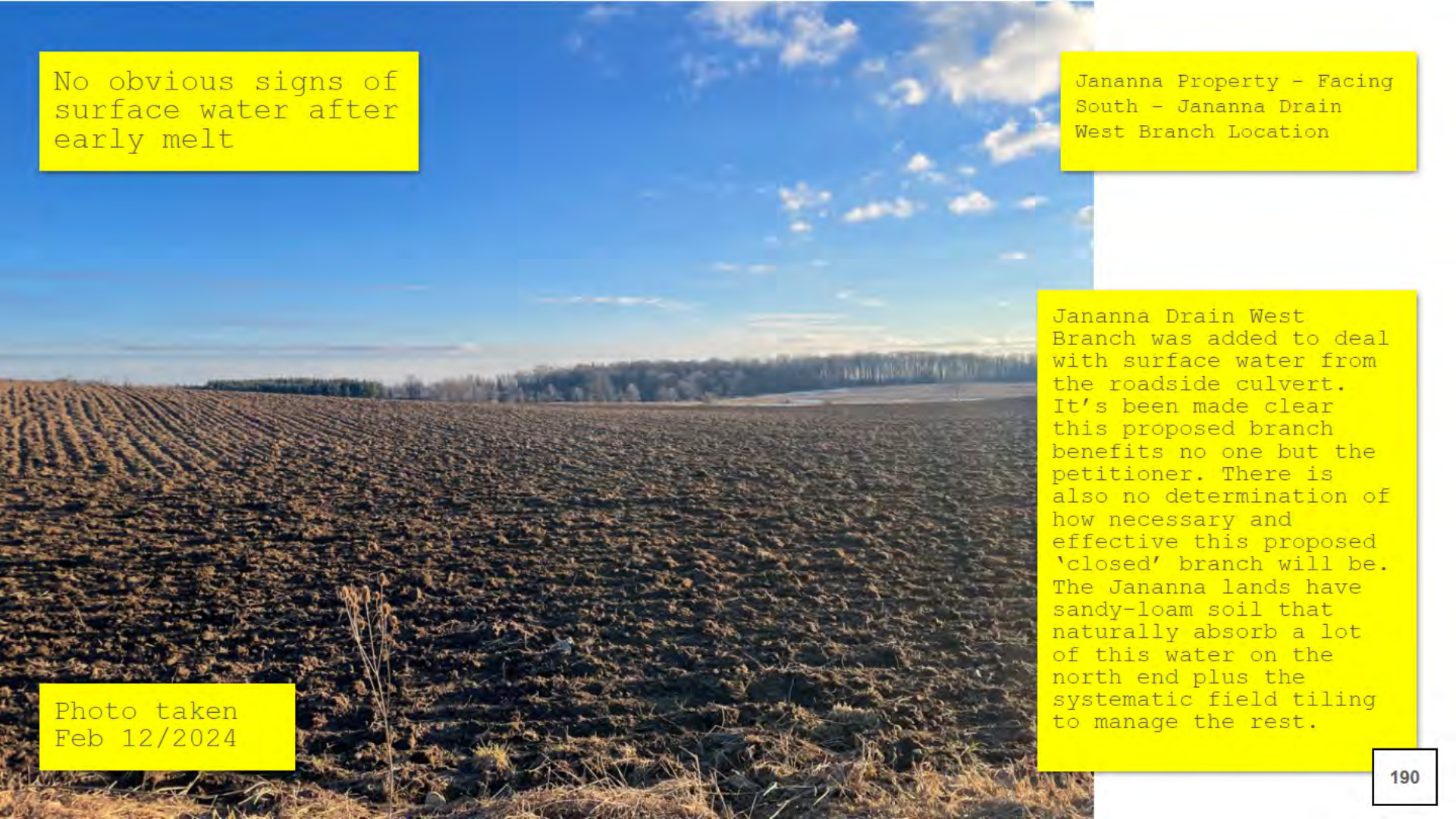
Road Culvert

Image taken 2018 -
Before systematic
field tiles

Image taken 2020 -
Systematic field
tiles installed

Jananna Property - Facing
South - Jananna Drain
West Branch Location

Photo taken
Feb 01/2024 - Early spring
thaw - No visible issues,
surface water or washout



No obvious signs of
surface water after
early melt

Jananna Property - Facing
South - Jananna Drain
West Branch Location

Jananna Drain West
Branch was added to deal
with surface water from
the roadside culvert.
It's been made clear
this proposed branch
benefits no one but the
petitioner. There is
also no determination of
how necessary and
effective this proposed
'closed' branch will be.
The Jananna lands have
sandy-loam soil that
naturally absorb a lot
of this water on the
north end plus the
systematic field tiling
to manage the rest.

Photo taken
Feb 12/2024

Jananna Property -
Facing South -
West Drain
Location

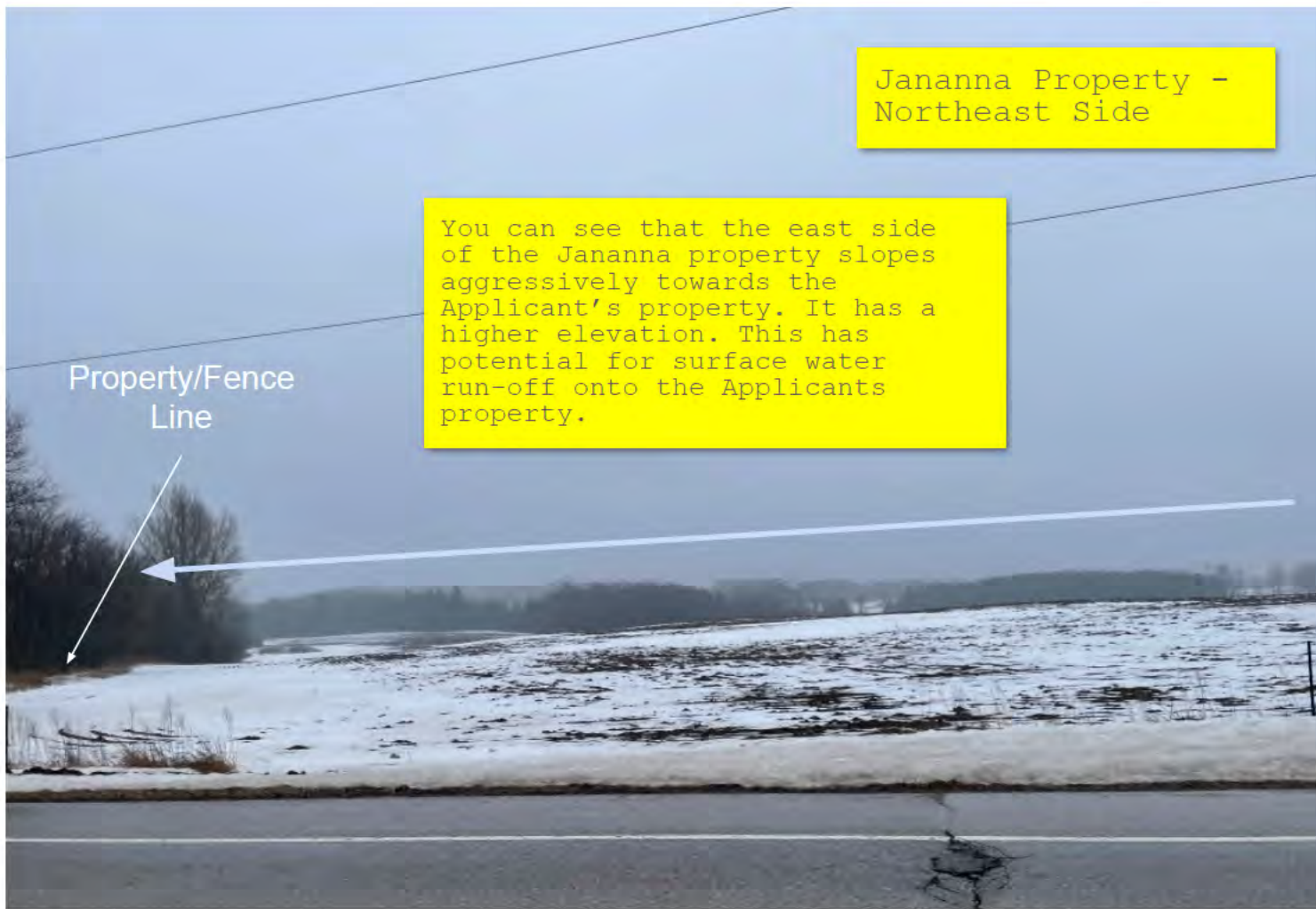


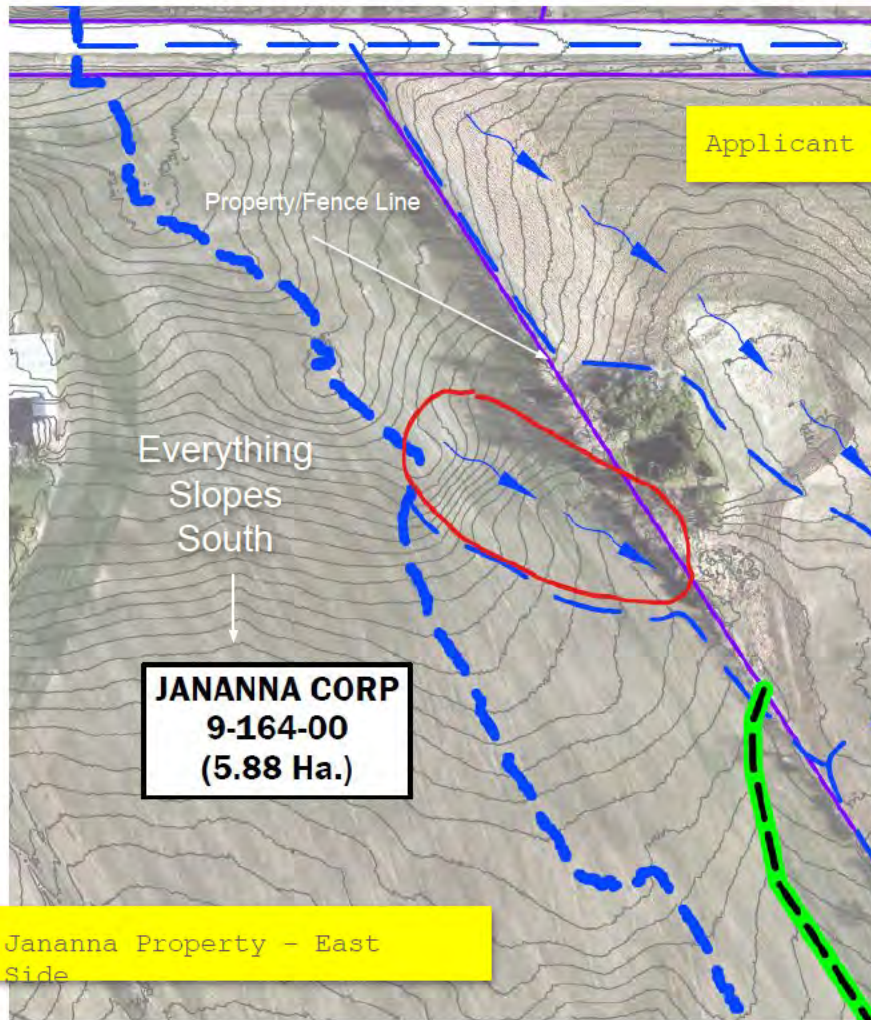
Photo taken
Mar 10/2024

Jananna Property -
Northeast Side

You can see that the east side of the Jananna property slopes aggressively towards the Applicant's property. It has a higher elevation. This has potential for surface water run-off onto the Applicants property.

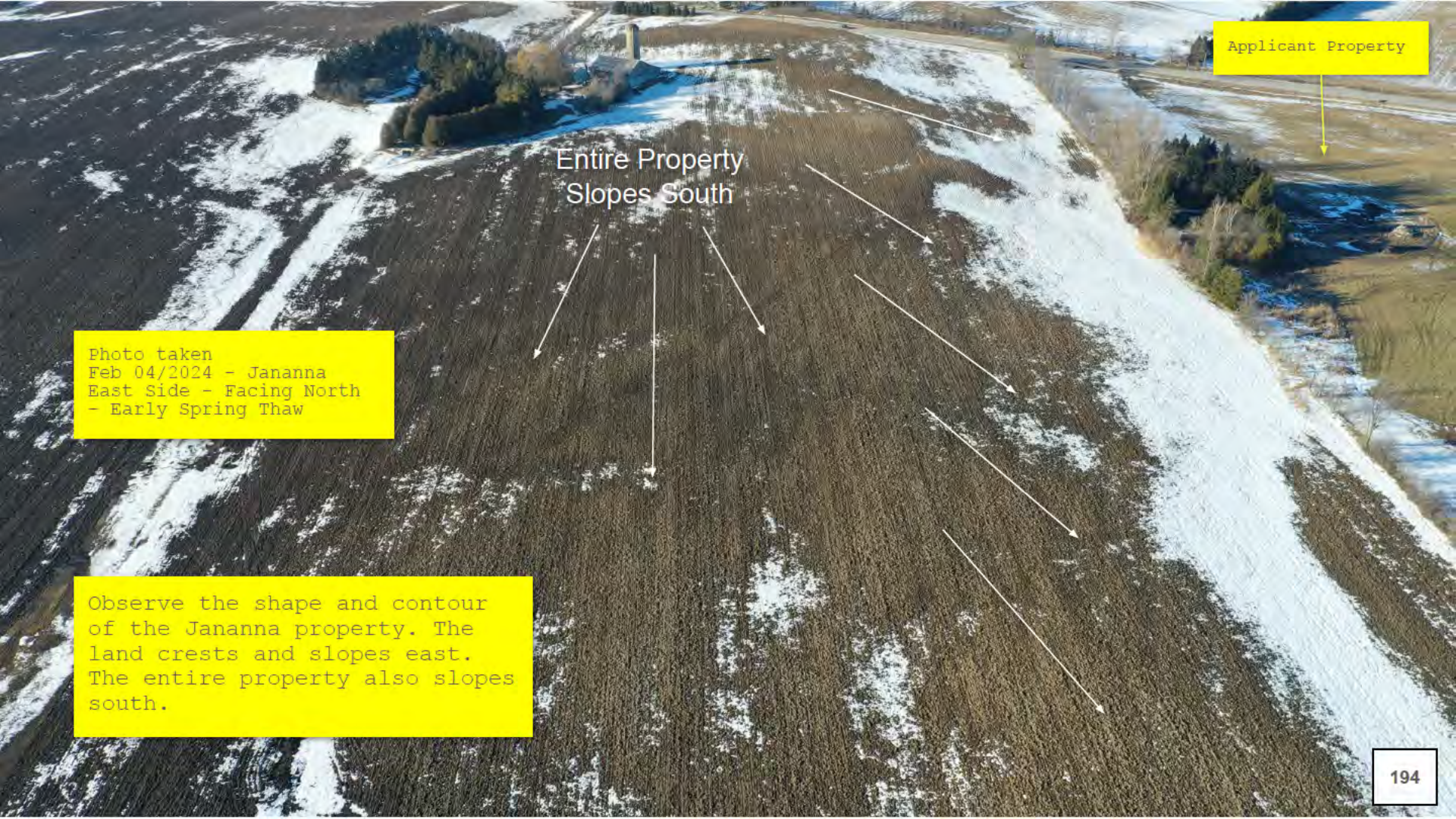
Property/Fence
Line





The contours on the map also show that the Jananna property has significant slope to the south, veering towards the Applicant's property. All this slope provides natural surface drainage to the south.

Jananna Property - East Side



Applicant Property

Entire Property
Slopes South

Photo taken
Feb 04/2024 - Jananna
East Side - Facing North
- Early Spring Thaw

Observe the shape and contour
of the Jananna property. The
land crests and slopes east.
The entire property also slopes
south.

**JANANNA DRAIN
(EAST BRANCH)**

Property/Fence Line

LOWEST POINT

0+310 JB
0+270
CB OFFSET
21m EAST

B.M. 1
357.81

0+218 R

400mmØ

0+000

0+005 R

The Jananna property sits higher than the Applicants, slopes south and surrounds the low-lying basin area, so it's surface water flows into this area.

Proposed catch basins will do nothing to remove this water from the Applicant's property.

Plus the closed nature of the system will also do nothing to capture water from surrounding lands.

Applicant Property

Jananna Property

Jananna Property

High Ground

Property/Fence Line

Engineer's Planned
Catch Basin

Lowest Spot

The Engineer's plan calls for a catch basin along the property line, which will serve no benefit to the Applicant. It's poor location will leave all the surface water on the Applicants side.

Applicant Property

Photo taken
Mar 11/24 - Spring Thaw

Jananna Property

Property/Fence Line

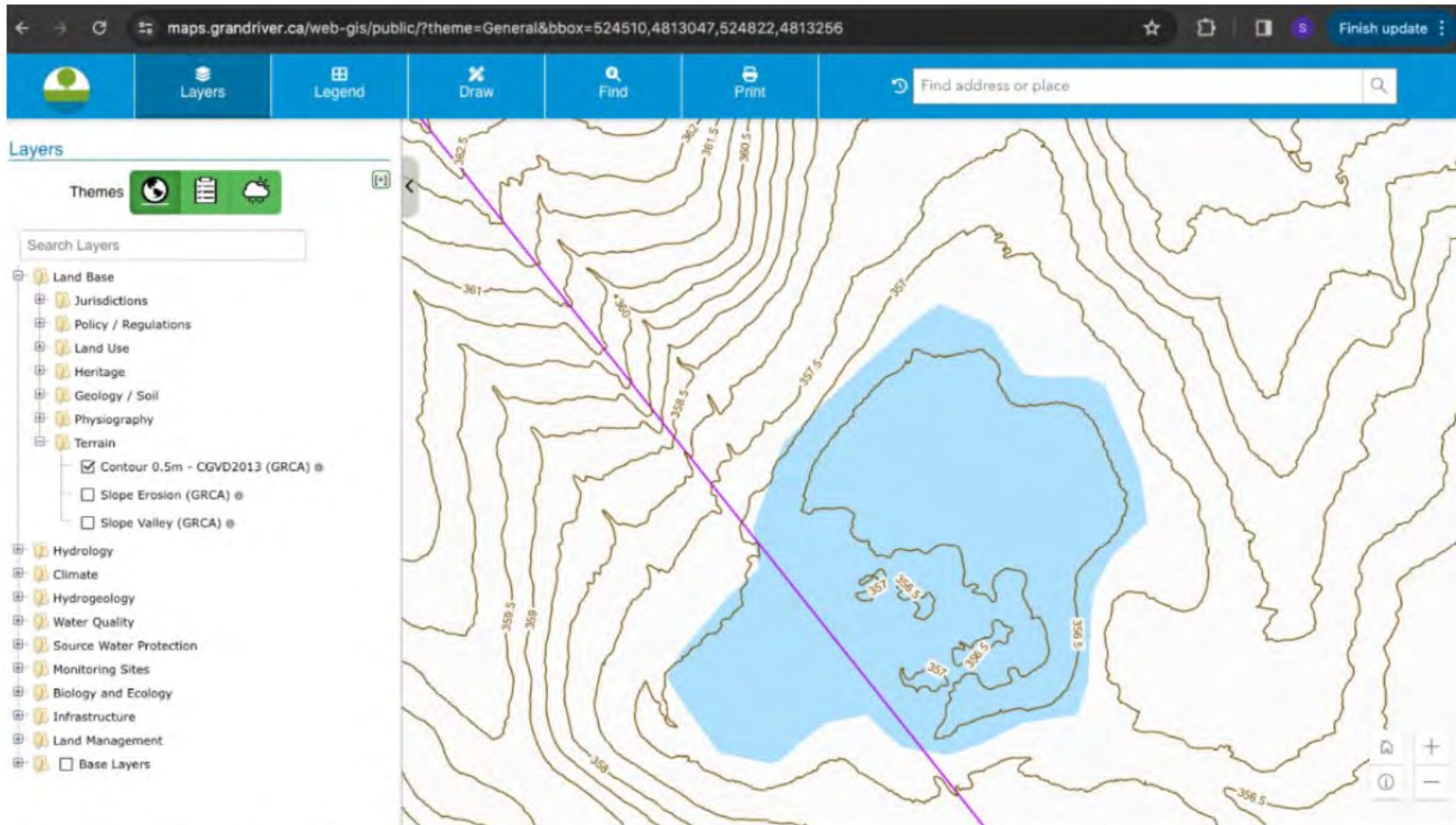
Engineer's Planned
Catch Basin

Lowest Spot

Water doesn't lie.
Because the planned catch
basin is not planned for
the lowest spot, it
leaves all the water
sitting on the Applicant
property, but as you can
see from the images, the
water does dissipate
quickly on it's own.
After spring thaw, water
doesn't return this area.

Applicant Property

Photo taken
Mar 12/24



Video taken
Apr 12/2023 -
Jananna southeast
side low basin area



[Video Link](#)

Land renter spraying the land
without issue. One of the first
farms in the area with machinery
in the fields this season.

Jananna Property -
Southeast Side - Low Basin

Photo taken
July 26/2023



Photo taken
Aug 10/2023

Jananna Property -
Southeast Side

Property/Fence Line

Applicant Property



Video taken
Nov 02/2023 -
Jananna southeast
side - low basin
area



Land renter
working the land
without issue

[Video Link](#)

Jananna Property -
Southeast Side

Photo taken
Jan 01/2024

Low Basin Area



Property/Fence Line



Jananna Property - Southeast
Side - Facing South

Low Basin Area

Applicant Property

Property/Fence Line

Photo taken
Jan 01/2024


Photo taken
Jan 01/2024 -
Facing South

Applicant Property

Property/Fence Line

Low Basin Area

As a comparable, this
is the Applicant
property during the
same time.

An aerial photograph of a large, snow-covered field. In the upper center, a small house with a dark roof is visible, surrounded by bare trees and some evergreens. The field is marked with numerous dark, curved tracks, likely from a vehicle. The bottom left corner shows a dense line of bare trees. The overall scene is a winter landscape.

As another comparable, this is a neighbour just south of the Jananna property during the same time. You can see the striking contrast, as the Jananna fields look pristine compared to this.

Photo taken
Jan 01/2024 -
Facing South

Photo taken
Feb 12/2024 -
Early Spring Thaw

Jananna Property -
Southeast Side

Low Basin Area

Property/Fence Line

Applicant Property

Jananna Property -
Southeast Side

Property/Fence Line



Low Basin Area

Applicant
Property

Photo taken
Feb 12/2024

Photo taken
Mar 11/2024 - Spring
Thaw

Property/Fence Line

Applicant Property

Low Basin Area

Jananna Property



Jananna Property

Applicant Property

Working Field Tile

Property/Fence Line

Photo taken Jun 13/2023

Jananna Property

Property/Fence Line

Applicant Property

Photo taken May 12/2022

The area was cleared of brush and is farmed actively by the land renter today.

Jananna Property

Property/Fence Line



Photo taken Nov
6/2022

Applicant Property

Jananna Property

Low Basin Area

Property/Fence Line

Applicant Property

Photo taken May 25/2023

- Historically this low-lying basin area has been a problem area with persistent standing water all year round and heavy overgrowth. It was not farmable.
- But since Jananna systematically tiled their field, the persistent water has disappeared. The only change made during this time was their field tiling, so it's clear evidence that their system is working.



Southeast Low-lying Basin Over Time



Photo taken Apr 16/2016 -
Conditions prior to Jananna
Corp systematic field tile



Photo taken Jul 7/2018 -
Jananna Corp systematic field tile
installed and working. Area drying
due to less water coming from Jananna
property



Photo taken May 5/2022 -
vegetation and brush cleared



Year 2000



Year 2010



Year 2014



Year 2015



Year 2018

Before
systematic
field tiling.



Property/Fence Line

After
systematic
tiling

Water is no
longer
persistent

Jananna Property

Year 2020

Applicant Property

Layer List

Layers

- ☐ Addresses
- ☐ Schools
- ☐ Libraries
- ☐ Roads
- ☐ Airport
- ☐ City, Town or Village
- ☒ Assessment Parcels (M)
- ☐ Ownership Parcels (Ter)
- ☐ Survey Points
- ☐ Wellhead Protection Se
- ☒ Municipal Boundaries
- ☐ 2022 Aerial Imagery
- ☒ 2020 Aerial Imagery
- ☐ 2019 Aerial Imagery
- ☐ 2018 Aer



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Find address or place

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Property/Fence Line

Applicant Property

After
systematic
tiling

Jananna Property

Year 2022

Layer List

Layers

- ☐ Addresses
- ☐ Schools
- ☐ Libraries
- ☐ Roads
- ☐ Airport
- ☐ City, Town or Village
- ☒ Assessment Parcels (MP)
- ☐ Ownership Parcels (Terrestrial)
- ☐ Survey Points
- ☐ Wellhead Protection Se
- ☒ Municipal Boundaries
- ☒ 2022 Aerial Imagery
- ☐ 2020 Aerial Imagery
- ☐ 2019 Aerial Imagery
- ☐ 2018 Aerial Imagery

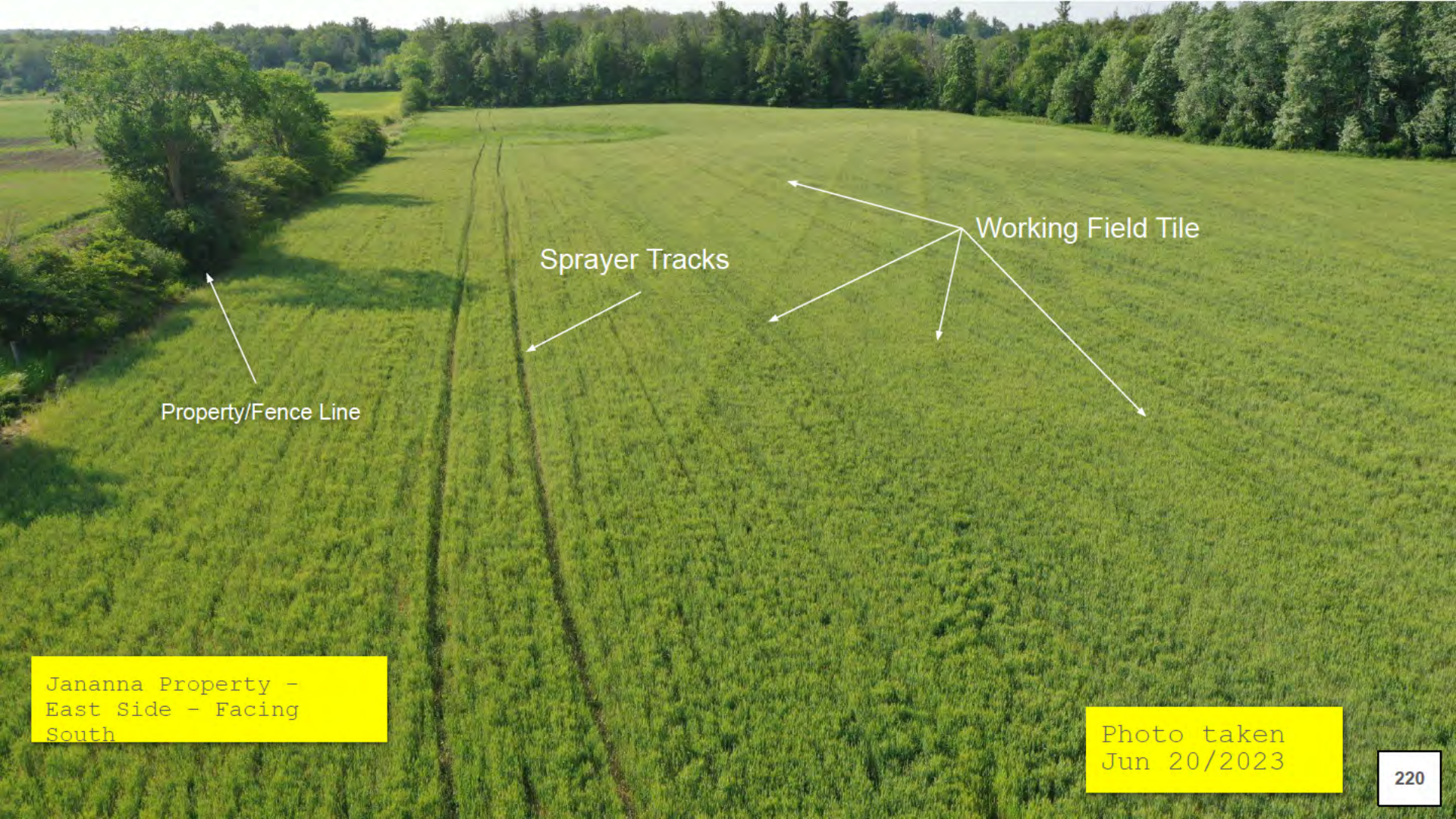
40m

-80.696 43.472 Degrees

Esri Community Maps Contributors, Province of Ontario, Esri Canada

- The significant majority of Jananna property has drainage infrastructure and is being farmed successfully.
- There is only 1(+/-) acre without drainage but it's still being farmed, sees water only during spring thaw and has seen major improvements due to the surrounding systematic tiling.





Property/Fence Line

Sprayer Tracks

Working Field Tile

Jananna Property -
East Side - Facing
South

Photo taken
Jun 20/2023

Jananna Property -
Southeast Side - Facing
South



[Video Link](#)

Video taken
Jun 20/2023

Jananna Property - East
Side - Facing north along
property line.

Photo taken
Jun 22/2023

Applicant Property

Jananna Property

222

Jananna Property - East
Side - Facing west along
property line.

Photo taken
Jun 22/2023





Applicant Property

Property/Fence Line

Jananna Property -
Southeast Side - Facing
East

Photo taken
July 26/2023

Video taken
Nov 02/2023 -
Jananna East Side -
washout "problem
area"



Land renter
working the land
without issue

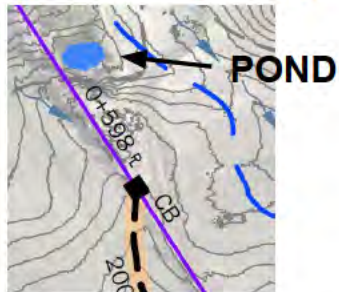
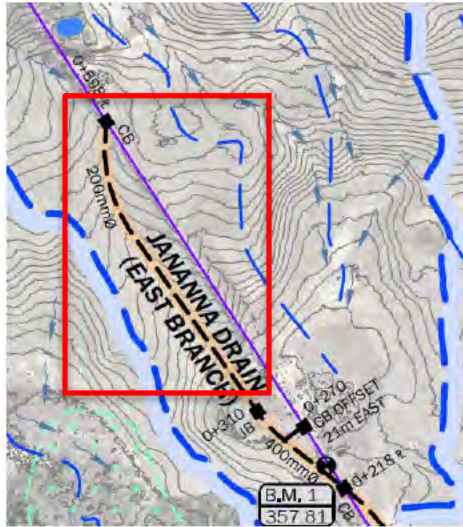
[Video Link](#)

Photo taken
Nov 3/2023

Property/Fence Line

Applicant Property

Jananna Property - West
Side - Washout - Facing
South



- With Jananna's new systematic field tiling, they added a drain inlet and drain in a location similar to where the Engineer is proposing a catch basin. This is a vital piece of information that was missing from all the drawings, presentations and reports.
- The other issue with this portion of the Jananna Drain East Branch is that the Applicant started reconstruction of the pond on August 3, 2024.
- This work has resolved any potential 'surface water' issue that might have been 'pond related', which means this section of the drain could sit dry and idle since it was specifically for the 'pond issue' according to the Engineer.
- Therefore the new drain would be a redundant solution since there is already a drain and inlet in this location that is working and more than adequate to handle water that is no longer coming to the drain.



Current Jananna field tile system

A newly installed drain and inlet already exists at this location. What's odd is that this inlet and systematic field tile system was barely mentioned in the presentations and report

- Upon learning of a potential problem, the Applicant began investigation on the pond which is situated on the Applicant's property.
- Recommendations were made to completely eliminate the pond as a potential source of unwanted surface water.
- At some point in the history of the pond, an event caused the water overflow pipe to stop working temporarily and a portion of the wall eroded due to a breach. This has the potential for water loss if water levels were to get too high in the pond.
- It was also suggested to re-build and re-route the overflow away from the petitioner property as the condition of the field tile that takes the water away is unknown.
- The result is a better performing solution that actually fixes a problem, not band-aid it.
- It's a faster, cost-effective, pragmatic and common sense solution which this project needs more of.
- If the Engineer had reached out to the Applicant and other landowners, he would have been more aware of issues like this and the correct solution could have been implemented much sooner.



Pond wall facing
West



Heavy blue clay



Pond clean out and
rebuild





Jananna Property

New re-constructed pond walls. Built higher and thicker. Parts of the pond were infilled creating a smaller pond area overall.



Jananna Property

Pond re-construction

New emergency spillway serves as a backup if overflow fails - takes water in completely opposite direction of Jananna property

Smaller perimeter, partly infilled

Re-constructed walls - 120 yards of heavy blue clay

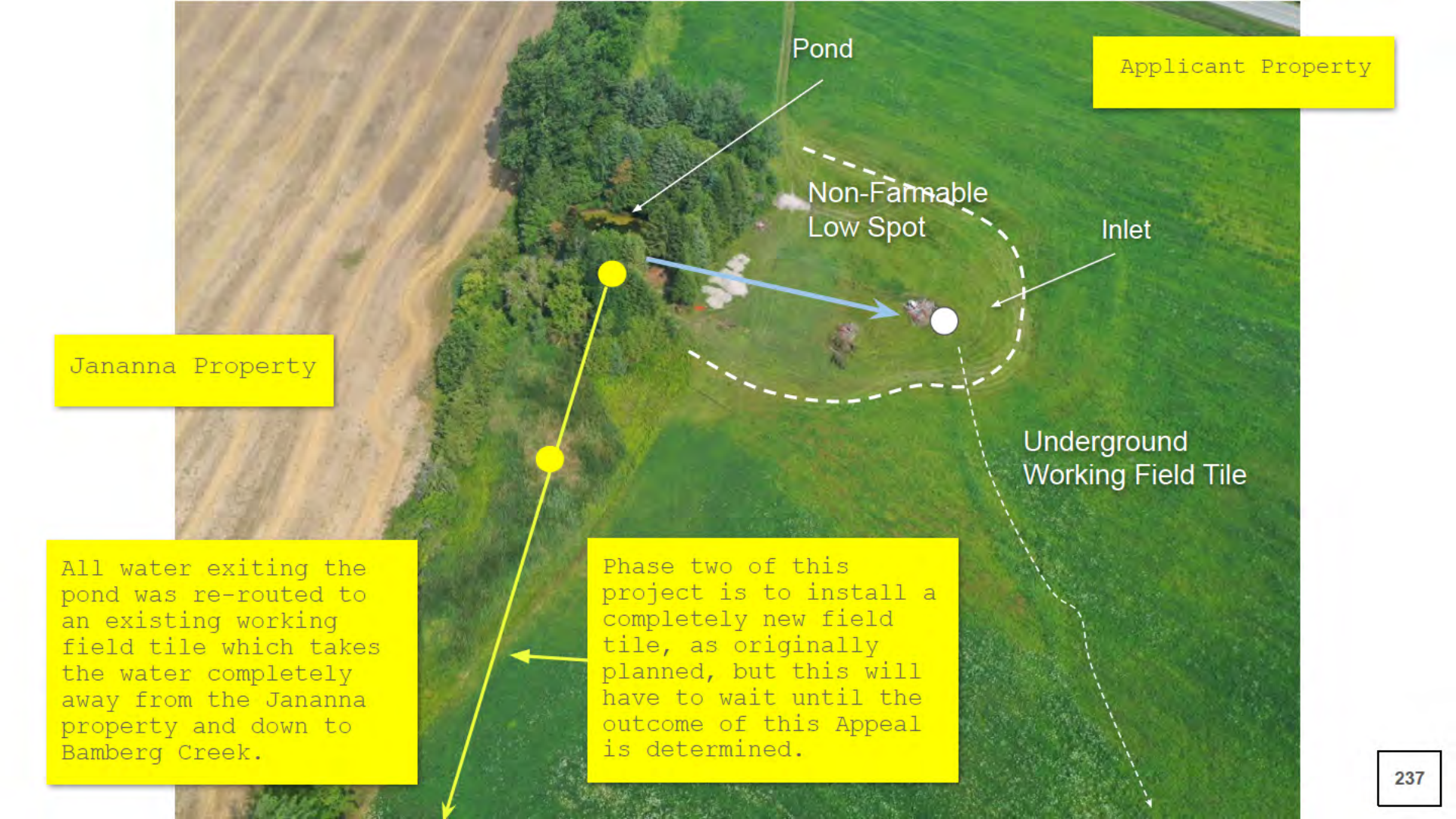
New anti-plug overflow with adjustable pond level setting

New infill
New reinforced walls

New Emergency
Spillway

Pond image facing
west





Pond

Applicant Property

Non-Farmable
Low Spot

Inlet

Jananna Property

Underground
Working Field Tile

All water exiting the pond was re-routed to an existing working field tile which takes the water completely away from the Jananna property and down to Bamberg Creek.

Phase two of this project is to install a completely new field tile, as originally planned, but this will have to wait until the outcome of this Appeal is determined.

Pond Re-Construction Cost

Item	Cost
Labour/Equipment/Transport:	\$6,040.00
Other Materials:	635.52
Aggregates:	\$1,200.00
Rentals	\$338.00
TOTAL	\$8,213.52

- Jananna has reaped the benefits of their systematic field tile.
- There has been a progressive improvement over time.
- You can visibly see improvements on the east side, south side and west side.
- The potential for additional benefits are incremental and the issues that remain are grossly insignificant compared to the overall land mass and compared to the cost and scale of the project.
- Given the elevation, slope and contours of the Jananna property, their own surface water is also contributing to the 'areas of concern'.
- The net benefit is still a mystery, but no quantifiable argument can be made that justifies the work.
- The Drainage Act does not guarantee the right to unrealistic and perfect drainage conditions.
- The areas requiring drainage are undeniable and visibility clear.
- There is a very good probability all this money will be spent and these new drains will sit in the ground dry which would be a complete disregard for people's time and hard earned money.

Financial Considerations

- After careful review of the Engineer's Report, there is very little justification and little to no evidence in the report, visual or otherwise, as to why the drainage works are necessary and that there is a problem worth fixing.
- There is no evidence that suggests that there is a persistent drainage problem on this property. A collection of gathered photographic evidence across multiple years and farming seasons that have been provided by the Applicant can attest to that.
- The property in question is being farmed in its entirety including the supposed problem areas. For a \$462,900+ investment into already and newly systematically tiled fields, there must be a clear and obvious case to do so.
- No business case is present and no ROI has been provided to the landowners who are paying for this.
- In a scenario where landowners are unwillingly being forced to pay, shouldn't those basic things be even more critical? There is no accounting and accountability.

Applicant Property

Photo taken
Nov 3/2023

Property/Fence Line

Is this worth
\$308,200+?
(East Branch Portion)

Jananna Property
- East Branch -
Facing South



Cory Kittel <corykittel@gmail.com>

Jananna Financials/Payback

Cory Kittel [REDACTED]
To: Stephen Brickman <stephen.brickman@headwayeng.ca>

Fri, Dec 9, 2022 at 5:11 PM

Hey Stephen,

I hope all is well. I wanted to pass along the financial assessment of the Jananna drainage project. Really this is the only determining factor that should drive a project like this. If no one can articulate the financial benefit of doing the work, the work really shouldn't happen at all. 'It will help' should not be an acceptable answer for a \$400,00+ project that is coming out of my pocket and my neighbours pockets.

I've used the time recently to talk to consultants, complete a field survey, gather more images and start work on repairing the pond, which only came to light during the first public meeting. No one ever talked to me about this. I talked to the petitioners and committed to fixing this issue - the drainage branch outlined in the report to fix 'the pond problem' is only a band-aid solution and doesn't really fix the problem. Structural work on the pond will start shortly, infill, control systems, berm work and a new tile to take care of any pond overflow that the Jananna group could take advantage of as well.

I have a full assessment of the Jananna project and slides I'm happy to share with you for Monday. I'm all for mutually beneficial solutions if it makes sense, but one of the solutions can't be a municipal drain through my property.

Anyway, I just wanted to start with this, but more to come. Let me know if you have any questions.

Cory

 Jananna_Drainage_Financials_Payback.pdf
253K

The sentiment around financial feasibility of this project was shared very early on with the Engineer, which was largely ignored. There was no response to this email.

- Calculating the financial feasibility of this entire project is actually quite simple. Let's look at Jananna's payback period since they are the one requesting this work.
- Jananna currently rent their land and make \$300/acre (they don't farm it themselves). This rate was confirmed by one of the Jananna members during the first Public Meeting. Speaking with farmers and land renters in the area, this is the top rental rate in this part of Wilmot for systematically tiled fields. Farmers are actually asking for multi-year agreements if paying this price.
- Installing new drains will not bump up this rate because their fields are already tiled so the proposed work will have no impact on their per acre rate since they are already at the top tier. Rent will rise naturally through inflation, market demand etc., not because of the proposed drainage work.
- We also know the renter is farming all their farmland. The proposed work will not create any new land to farm. For the sake of argument though, let's say they unlock one extra acre. That would only result in an extra \$300 per year in rent revenue.
- Their proposed cost for this project is \$57,441. Earning an extra \$300/yr, it would take Jananna over 190 years just to pay back the cost of this project.

- Even when looking at yield, it's extremely hard to make a case for this work.
- What kind of a yield increase do you expect to get from fields that are already systematically tiled?
- Estimates of yield increase from field tiling vary wildly depending on the source, but for the sake of argument let's just say one could see a [15%-25%](#) increase from newly tiled fields, but that's not the case here. The Jananna fields are already tiled. Again, what kind of incremental increase can you guarantee on already tiled fields? The calculations below are extremely generous.
- Jananna have approx 85 acres of farmable land so it's fair to say the work being proposed will not impact 85 acres. Let's say hypothetically 30% of the acres (25.5 acres - again, this is just for demonstration, there is no evidence of more than an acre benefiting) see a 15% improvement, you're looking at 130+ years to pay back the cost of this project based on Jananna revenue increases.

SOY							
Yield Increase	BU/Acre	Acres	Total BU	Price/BU	Revenue	Diff	Payback Years
Baseline	50.00	25.5	1,275.00	18.5	23,587.50		
5%	52.50	25.5	1,338.75	18.5	24,766.88	1,179.38	392
10%	55.00	25.5	1,402.50	18.5	25,946.25	2,358.75	196
15%	57.50	25.5	1,466.25	18.5	27,125.63	3,538.13	131
20%	60.00	25.5	1,530.00	18.5	28,305.00	4,717.50	98
25%	62.50	25.5	1,593.75	18.5	29,484.38	5,896.88	78
30%	65.00	25.5	1,657.50	18.5	30,663.75	7,076.25	65
35%	67.50	25.5	1,721.25	18.5	31,843.13	8,255.63	56
40%	70.00	25.5	1,785.00	18.5	33,022.50	9,435.00	49
45%	72.50	25.5	1,848.75	18.5	34,201.88	10,614.38	44
50%	75.00	25.5	1,912.50	18.5	35,381.25	11,793.75	39
BU/Acre based on regionalized Agricorp yield maps							
Price/BU based on UofG Ontario Commodity Report Website							
Based on a project cost of \$462,900							

CORN							
Yield Increase	BU/Acre	Acres	Total BU	Price/BU	Revenue	Diff	Payback Years
Baseline	150.00	25.5	3,825.00	6.00	22,950.00		
5%	157.50	25.5	4,016.25	6.00	24,097.50	1,147.50	403
10%	165.00	25.5	4,207.50	6.00	25,245.00	2,295.00	202
15%	172.50	25.5	4,398.75	6.00	26,392.50	3,442.50	134
20%	180.00	25.5	4,590.00	6.00	27,540.00	4,590.00	101
25%	187.50	25.5	4,781.25	6.00	28,687.50	5,737.50	81
30%	195.00	25.5	4,972.50	6.00	29,835.00	6,885.00	67
35%	202.50	25.5	5,163.75	6.00	30,982.50	8,032.50	58
40%	210.00	25.5	5,355.00	6.00	32,130.00	9,180.00	50
45%	217.50	25.5	5,546.25	6.00	33,277.50	10,327.50	45
50%	225.00	25.5	5,737.50	6.00	34,425.00	11,475.00	40
BU/Acre based on regionalized Agricorp yield maps							
Price/BU based on UofG Ontario Commodity Report Website							
Based on a project cost of \$462,900							

- In this case there is a project estimate close to \$500k to do the work as outlined with very little additional farmland to gain. Based on the visual evidence, clearly the crops are growing in all areas.
- However, one might make the argument that the estimated 1 acre affected area was deemed to not be farmable. That 1 acre at the absolute most would be worth about \$35,000*. That would assume a 100 acre piece of farmland was worth \$3.5 million which is likely too high and not realistic.
- Based on this, the cost benefit would be \$460k+ cost to \$35k benefit.
- What other methodology could be used? Land rental of 1 acre per year would be no more than \$300 in this area.
- One could base the cost on a reduced yield, but again, that number is in the hundreds of dollars per year.
- How else does one evaluate the "benefit"? It would certainly be very hard to establish a benefit to the 16 landowners that it somehow exceeded \$460k+. It's impossible.

* Sourced from Farm Credit Canada annual farm land values

Farm Credit Canada publishes updated farm land values for this region.

[Website Link](#)

2022 FCC FARMLAND VALUES REPORT

This report covers the period from January 1 to December 31, 2022 | Published on March 13, 2023

Ontario

% change 19.4%

Central West

% change 10.3%

Value \$/acre* \$25,600

Value range** \$15,100 – \$35,700

\$0.00 – \$2,000.00
\$2,001.00 – \$3,000.00
\$3,001.00 – \$5,000.00
\$5,001.00 – \$8,000.00
\$8,001.00 –

- According to Section 40 of the Drainage Act, the Engineer could have determined that the drainage works are impractical and the process could have ended there, but they chose not to do that.
- Section 32 provided an option for the Engineer to scale down (not expand) a project if it is deemed the outlet is insufficient, which is the case being made here for the Jananna Drain East Branch.
 - Compensation paid for insufficient outlet are provided only once to affected properties.
 - The Engineer choose not to exercise this option.
 - Instead of paying \$25,600 (+-), the cost is now \$104,800+ (East Branch) plus \$203,400+ (Bamberg Creek).
- Also in Section 48 (1)(a) The basis for an appeal and for a project to be halted is when the benefits to be derived from the drainage works are not commensurate with the estimated cost thereof. For this project what benefits have been derived and proven?

- This project is not something to take lightly. It's impacting real people and families in a very negative way, and for what? This money could be better invested by...
 - Farmers trying to fix larger 'actual' drainage problems
 - Businesses and farmers in areas they deem a benefit to them (i.e. new equipment, buildings, quota... the list goes on)
 - Young families trying saving up for their kids education
 - Fixed income seniors who are just trying to get by



Applicant Field Drainage Design (Draft)

- For example, the Applicant, which has no systematic field tiling in place today, could systematically tile a significant portion of their land and deal with immediate issues for the cost of what they are being assessed (\$25,334) for this project, which has no evidence of a benefit.
- The work the Applicant could complete on his fields with this money would do more good and would satisfy the intent of the Drainage Act way more than the proposed Jananna project ever could. In that way the Jananna project is actually counterproductive to the spirit of the Act.

Summary & Reflection

- The Engineer is making a petition validity claim via the Engineer's report that the area requiring drainage is exclusively on the Petitioner's property even though there is irrefutable evidence that shows otherwise.
- There is no evidence to suggest there is an area requiring drainage 60% or greater that resides on the Petitioner's property. There is actually no evidence to prove the 'impacts' or 'hardships' are the Petitioner's alone.
- The Township has taken liberties to piggy back this process to satisfy other agendas as a matter of opportunity and convenience, thus creating new areas not substantiated by any of the required mechanisms set out in the Act.
- These definitions and the criteria laid out above form the key democratic components of this process. The information provided clearly lays out both the word and spirit of the law as it pertains to this matter.
- The facts speak for themselves.

- If at any point the argument is made that the 'entire' Jananna property is the area requiring drainage... that IS using property boundaries to define the area requiring drainage.
- This makes defining the area requiring drainage completely arbitrary and in essence not defining any area at all.
- If that's permissible then it's time to re-write the Act, toss out the guidebooks, toss out the case law and eliminate the appeal processes completely, because none of it really matters.
- The proponents of the project pontificate the letter of the law when needed, but put in a situation where they have to backpedal, everything becomes a bit more pliable.
- The rules need to apply equally to all, no matter what position they hold.

- Complacency and a comfortable position of power become the norm. It appears as though the operators work in a bubble, shielded from accountability.
- What would matter in the real-world take a back seat in this world.
- The thin justification and lack of data for something with this level of capital investment would quickly have the proponents escorted out of the boardroom. Why should this be any different?
- Are participants in this process expected to take everything at face value? Accept reports with information selectively included and excluded? Accept a process where critical responsibilities and information is shrouded by a veil of vagueness?
- The primary grounds of this Appeal as outlined at the beginning and throughout are obvious, visible, and undeniable - it doesn't take an engineer, but it does require some common sense to see that.

Exhibit “**B**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Court File No.: CV-23-00001662-0000 (Kitchener)

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE COURT OF THE DRAINAGE REFEREE

BETWEEN:

CORY KITTEL

Applicant

-and-

THE CORPORATION OF THE TOWNSHIP OF WILMOT

Respondent

-and-

OTHERS WHO MAY BE GRANTED PARTY STATUS UPON APPLICATION

Respondents

NOTICE OF APPLICATION

TO THE RESPONDENT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim is set out in the following pages.

THIS APPLICATION will come for a hearing at a date and time to be determined, at the Waterloo Courthouse, 85 Frederick Street, Kitchener, Ontario.

IF THE CORPORATION WISHES TO OPPOSE THIS APPLICATION, to receive notice of any step in the application, or to be served with any documents in the application, the Corporation or its Ontario lawyer acting for it must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure, infra*, serve it on the applicant, and file with it, proof of service in the court office and the Corporation or its lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, the Corporation or its lawyer must, in addition to serving the notice of appearance, serve a copy on the applicants' lawyer or, where the applicants do not have a lawyer, serve it on the applicants and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: December 20, 2023

Issued by:

Local Registrar

Address of Court Office:
85 Frederick Street
Kitchener ON N2H 0A7

TO: **OFFICE OF THE ONTARIO DRAINAGE REFEREE**
12 The Ridgeway
London ON N6C 1A1

Andrew C. Wright
Tel: 519-671-5786
Email: andrewcwrightis@outlook.com

Acting Referee

AND TO: **COUREY LAW PROFESSIONAL CORPORATION**
18 Queen Street South
Tilbury ON N0P 2L0

Paul Courey – LSO No. 32630L
Tel: 516-682-1644
Email: pc@coureylaw.com

Lawyers for the Respondent,
The Corporation of the Township of Wilmot

APPLICATION

1. The Applicant, Cory Kittel (the “Applicant”) makes this Application for:
 - a. An Order setting the procedure, establishing the steps to be taken and the sequence in which they shall occur in this proceeding;
 - b. An Order setting the date or dates for the hearing and such other matter as this Application and the investigative work preceding it may make necessary;
 - c. An Order pursuant to paragraph 106(1)(b) of the *Drainage Act, infra*, setting aside the by-law, or provisional by-law, enacted by the Council of the Township of Wilmot, which implements the drainage report prepared by Headway Engineering, dated April 28, 2023 (herein “the drainage report”);
 - d. An Order declaring the drainage report to be a nullity, void and inoperative;
 - e. An Order pursuant to ss. 106(1)(b) of the *Drainage Act, infra*, declaring the drainage petition received by the Respondent on April 26, 2021 (herein “the drainage petition”) is not a valid petition that meets the requirements set out in ss. 4(1) of the *Drainage Act, infra*;
 - f. The Applicant’s costs of this proceeding on a solicitor and his own client basis, plus harmonized sales tax where required by law;
 - g. An Order pursuant to s. 113 of the *Drainage Act, infra*, extending the time for the completion any step(s) in this proceeding; and,
 - h. Such further and other relief as the Applicant may request and the Drainage Referee may deem just.

2. The grounds for the Application are:

- a. The Applicant and his family live on a 98-acre farm identified municipally as 1010 Gerber Road, St. Agatha, Ontario;
- b. The Applicant's property is situated wholly in the Township of Wilmot, approximately 6.8 kilometers east of the Town of Wellesley and approximately 1.6 kilometers south of the Village of Bamberg;
- c. The Applicant grew up working on this farm, which has been owned by his family for multiple generations;
- d. The Applicant's property consists primarily of a house, several outbuildings, and farm fields;
- e. The Bamberg Creek flows southwest across the southern part of the Applicant's property;
- f. The farm field abutting the westernmost edge of the Applicant's land is owned by Jananna Corp.;
- g. The Jananna Corp. property is identified municipally as 1184 Gerber Road. It is situated wholly within the Township of Wilmot;
- h. Jananna Corp. leases the fields at 1184 Gerber Road to cash-crop farmers;
- i. The Jananna Corp. property has extensive systematic land tillage and there is no evidence visual or otherwise that there is a significant or persistent drainage problem on this property that impacts their farmable land;

- j. The Koch-Leis Drain flows southeast across the southern portion of the Jananna Corp. property, then the drain outlets into the Bamberg Creek at a point south of the both the Jananna Corp. property and the Applicant's property;
- k. The Koch-Leis Drain does not flow across the Applicant's property;
- l. On April 26, 2021, the Respondent received a petition from Jananna Corp. for 500 metres of drainage to improve a southeast low portion of a field owned by the Jannana Corp.;
- m. The Jananna Corp. field that is the subject of the drainage petition abuts the Applicant's field;
- n. The drainage petition has been signed only by Jananna Corp.;
- o. The Council of the Township of Wilmot appointed Headway Engineering to prepare a drainage report on July 12, 2021;
- p. The drainage report was submitted to the Respondent on April 28, 2023;
- q. The drainage report recommends the establishment of a new municipal drain that would be called the Jananna Drain, which would consist of two separate branches;
- r. The proposed eastern branch of the new drain would commence at the property line between the Applicant's property and the Jananna Corp. property. It would flow southeast down the property line then veer east across the Applicant's field to outlet into the Bamberg Creek;
- s. In early 2023, a counter-petition was signed by 28 landowners who constitute the watershed community that is opposed to the construction of

- the Bamberg Creek, Jananna, and Koch-Leis Drains. The counter-petition demonstrates that most of the landowners within the watershed community do not recognize any need or benefit of the proposed work;
- t. To date, the numerous concerns with the proposed work held by the counter-petitioner landowners have gone largely unanswered by the Respondent;
 - u. Despite Headway Engineering's assertion that the drainage petition signed by only Jananna Corp. amounts to a valid petition, the Applicant respectfully submits that it is not a valid petition under the *Drainage Act, infra*, as it does not meet the requirements set out in ss. 4(1), the particulars of which deficiency include:
 - i. The drainage petition was not signed by a majority in number of the owners of lands in the area;
 - ii. The drainage petition was not signed by the owners of lands in the area representing at least 60 per cent of the hectarage in the area; and,
 - iii. The drainage petition was not signed by the Director.
 - v. There is a defined drainage basin requiring drainage that extends onto both the Jananna Corp. property and onto the Applicant's property. The majority of this area requiring drainage lies on the Applicant's property.
 - w. Even the original drainage petition visually shows the drainage area spans across part of the Jananna Corp. property and across part of the Applicant's property;

- x. All mapping applications show a consistent and defined drainage area, currently and historically, that spans from the Applicant's property onto the Jananna Corp. property;
- y. Despite this, the drainage engineer stated that the area requiring drainage was only on the Jananna Corp. property. This does not excuse or save the petition from being deficient according to ss. 4(1) of the *Drainage Act, infra*;
- z. The Court of the Drainage Referee has jurisdiction to determine the validity of, or to set aside any petition pursuant to s. 106(1)(b) of the *Drainage Act*;
- aa. Property boundaries should not be preferred over topographical contour features delimiting areas where water lies as a basis for establishing an area requiring drainage pursuant to s. 4 of the *Drainage Act*;
- bb. An engineer's opinion as to the area requiring drainage cannot stand, is not beyond review by the Court of the Drainage Referee, and the opinion must be set aside if it is patently wrong;
- cc. The Applicant did not sign the drainage petition so the sole signature on it by Jananna Corp. did not constitute a majority of the owners of the area requiring drainage;
- dd. Should the Drainage Referee find that the drainage report is not founded upon a valid petition, then it is respectfully submitted that the drainage works proposed in that report ought not to be constructed;
- ee. Another reason for the application is that a separate new branch of the drain was added to the project exclusively by the Township Drainage

- Superintendent and Engineer without due authority. The new branch of the proposed drain is called the Jananna West Branch. It is located in a separate dissimilar drainage area that is far from the original petitioned drain, on the opposite side of the farm;
- ff. The Jananna West Branch was created to deal with a road drain. This added drain was not contemplated on the original petition and does not have its own petition;
 - gg. The engineer failed to call a second site meeting when the areas requiring drainage had changed;
 - hh. It is respectfully submitted that the *Drainage Act, infra*, does not authorize a municipality to pass a by-law for the construction of a drainage system, such as the proposed Bamberg Creek, Jananna Drain, and Koch-Leis Drains which differs substantially in size and cost from the drain petitioned for;
 - ii. Both the issue of petition validity and the issue of the improper expansion of the drainage project were expressed to the Council of the Township of Wilmot at the Meeting to Consider, however, the councillors and the drainage engineer did not address these issues at said meeting;
 - jj. The Applicant pleads and relies upon on sections 4, 9, 32, 33, 44, 47, 58, 106, 111, 113, 114, 117, 118, 119 and 120 of the *Drainage Act*, R.S.O. 1990, c. D. 17, as amended, and the regulations thereto;
 - kk. Rules 1.04, 10.5, 2.01, 3.02, 14.05, 38, 39, 53, and 57 of the *Rules of Civil Procedure*, as amended;

- ll. Rule 131 of the *Courts of Justice Act*, R.S.O. 1990, c. 43; and,
- mm. Such further and other grounds as counsel may advise and the Drainage Referee may permit.

3. The following documentary evidence will be used at the hearing of the Application:

- a. The Affidavit of Cory Kittel, to be sworn, and Exhibits attached thereto;
- b. The drainage petition received by the Respondent on April 26, 2021;
- c. The drainage report of Headway Engineering, dated April 28, 2023;
- d. The Notice of Application;
- e. A Guide for Engineers working under the Drainage Act in Ontario Publication 852 OMAFRA; and,
- f. Such further and other evidence as counsel may advise and the Drainage Referee permit.

Dated: December 20, 2023

THE LAW OFFICE OF SAMUEL
KIRWIN PROFESSIONAL
CORPORATION

472 Ridout Street North
London ON N6A 2P7

Samuel Kirwin (LSO # 81800K)

Tel: (519) 494-1092
Email: samuel@kirwinlaw.ca

Lawyer for the applicant,
Cory Kittel

CORY KITTEL
Applicant

-and-

THE CORPORATION OF THE TOWNSHIP OF WILMOT
Respondent

Court File No. CV-23-00001662-0000 (Kitchener)

ONTARIO
COURT OF THE DRAINAGE REFEREE

PROCEEDING COMMENCED AT
WATERLOO

NOTICE OF APPLICATION

THE LAW OFFICE OF SAMUEL KIRWIN
PROFESSIONAL CORPORATION

472 Ridout Street North
London ON N6A 2P7

Samuel Kirwin (LSO # 81800K)

Tel: (519) 494-1092

Email: samuel@kirwinlaw.ca

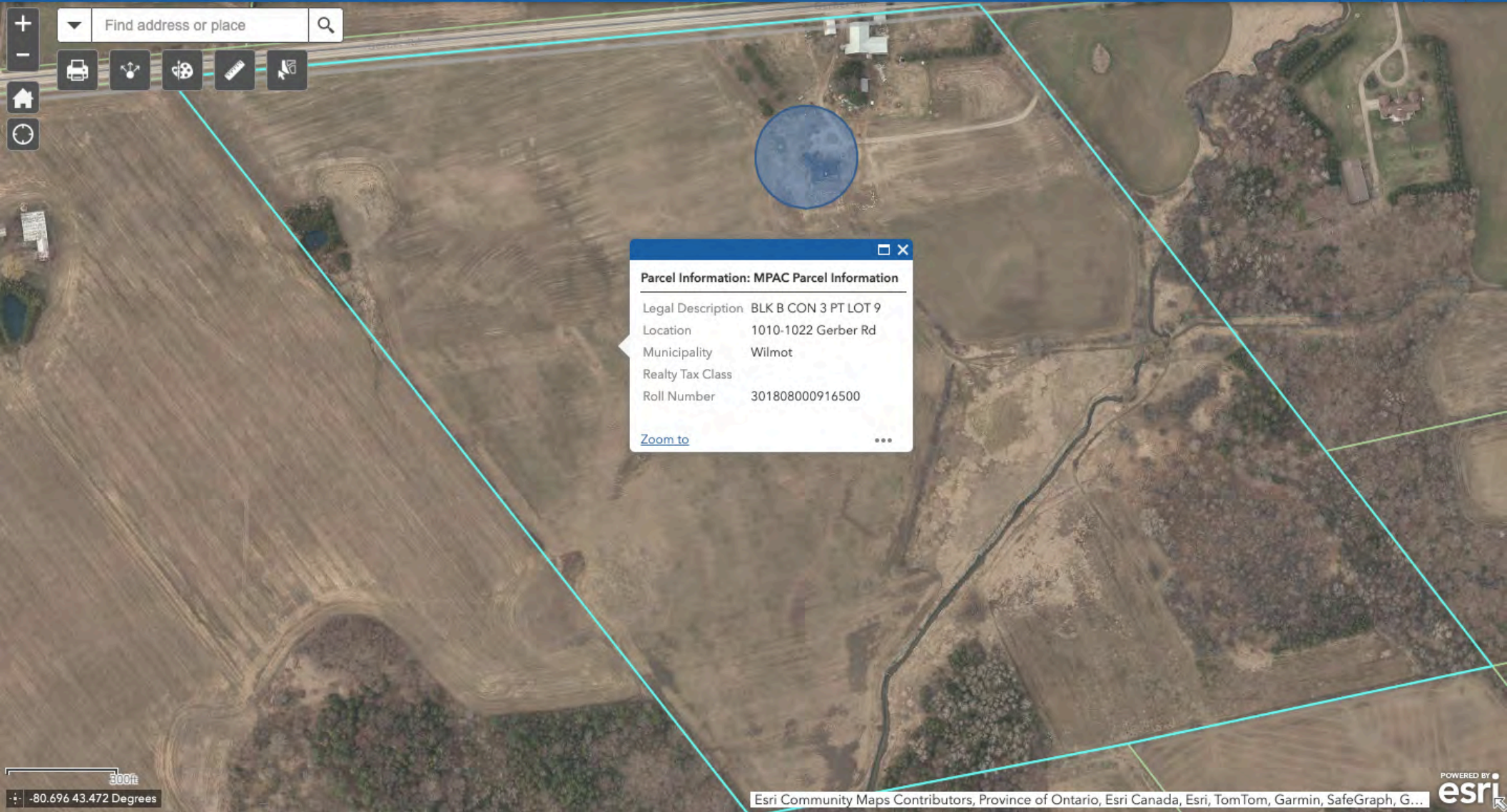
Lawyer for the applicant,



Cory Kittel

Exhibit “C” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.





Parcel Information: MPAC Parcel Information

Legal Description	BLK B CON 3 PT LOT 9
Location	1010-1022 Gerber Rd
Municipality	Wilmot
Realty Tax Class	
Roll Number	301808000916500


[Zoom to](#)

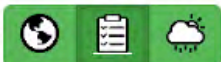
Exhibit “D” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Layers

Themes

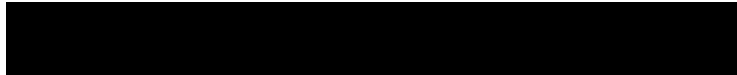


Search Layers

- Regulated Areas
 - ☒ Regulation Limit (GRCA)
 - ☐ Floodplain (GRCA)
 - ☐ Floodplain - Special Policy Area (GRCA)
 - ☐ Slope Erosion (GRCA)
 - ☐ Slope Valley (GRCA)
 - ☐ Regulated Watercourse (GRCA)
 - ☐ Regulated Waterbody (GRCA)
 - ☐ Wetland (GRCA)
 - ☐ Lake Erie Flood (GRCA)
 - ☐ Lake Erie Shoreline Reach (GRCA)
 - ☐ Lake Erie Dynamic Beach (GRCA)
 - ☐ Lake Erie Erosion (GRCA)
- Land Base
- Hydrology
- Hydrogeology
- Water Quality
- Source Water Protection
- Monitoring Sites
- Biology and Ecology
 - Wetland
 - Wetland (MNRF)



Exhibit “E” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Legend

- Municipal Boundary (GRCA)
- Watercourse (GRCA)
- Waterbody (GRCA)
- Conservation Area Boundary (GRCA)



Exhibit “**F**” to the Affidavit of Cory Kittel

Sworn before me this 2nd day of April, 2024.



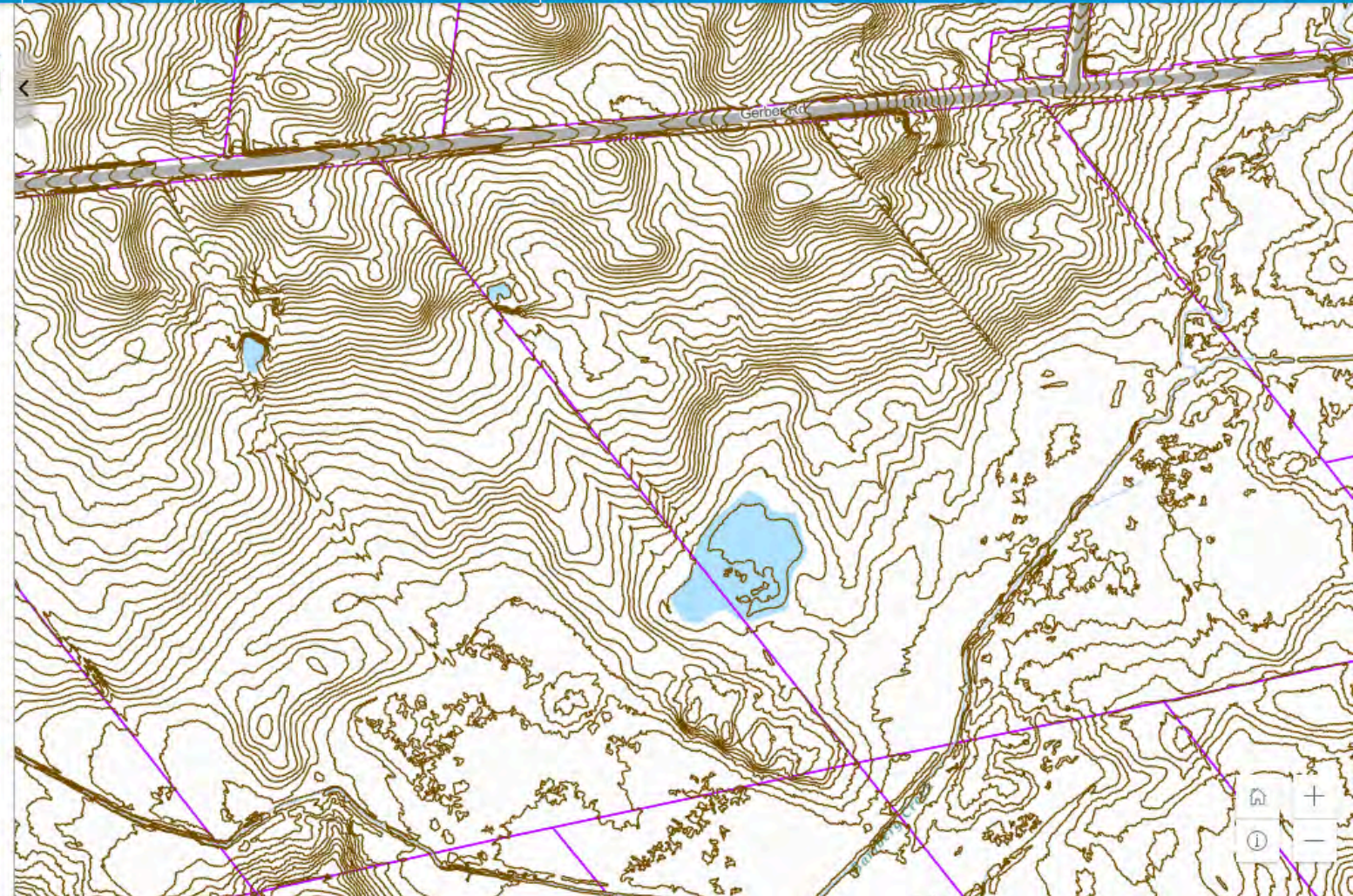
Commissioner for Taking Affidavits, etc.

Layers

Themes

Search Layers

- Land Base
 - Jurisdictions
 - Policy / Regulations
 - Land Use
 - Heritage
 - Geology / Soil
 - Physiography
 - Terrain
 - ☒ Contour 0.5m - CGVD2013 (GRCA)
 - ☐ Slope Erosion (GRCA)
 - ☐ Slope Valley (GRCA)
- Hydrology
- Climate
- Hydrogeology
- Water Quality
- Source Water Protection
- Monitoring Sites
- Biology and Ecology
- Infrastructure
- Land Management
- Base Layers

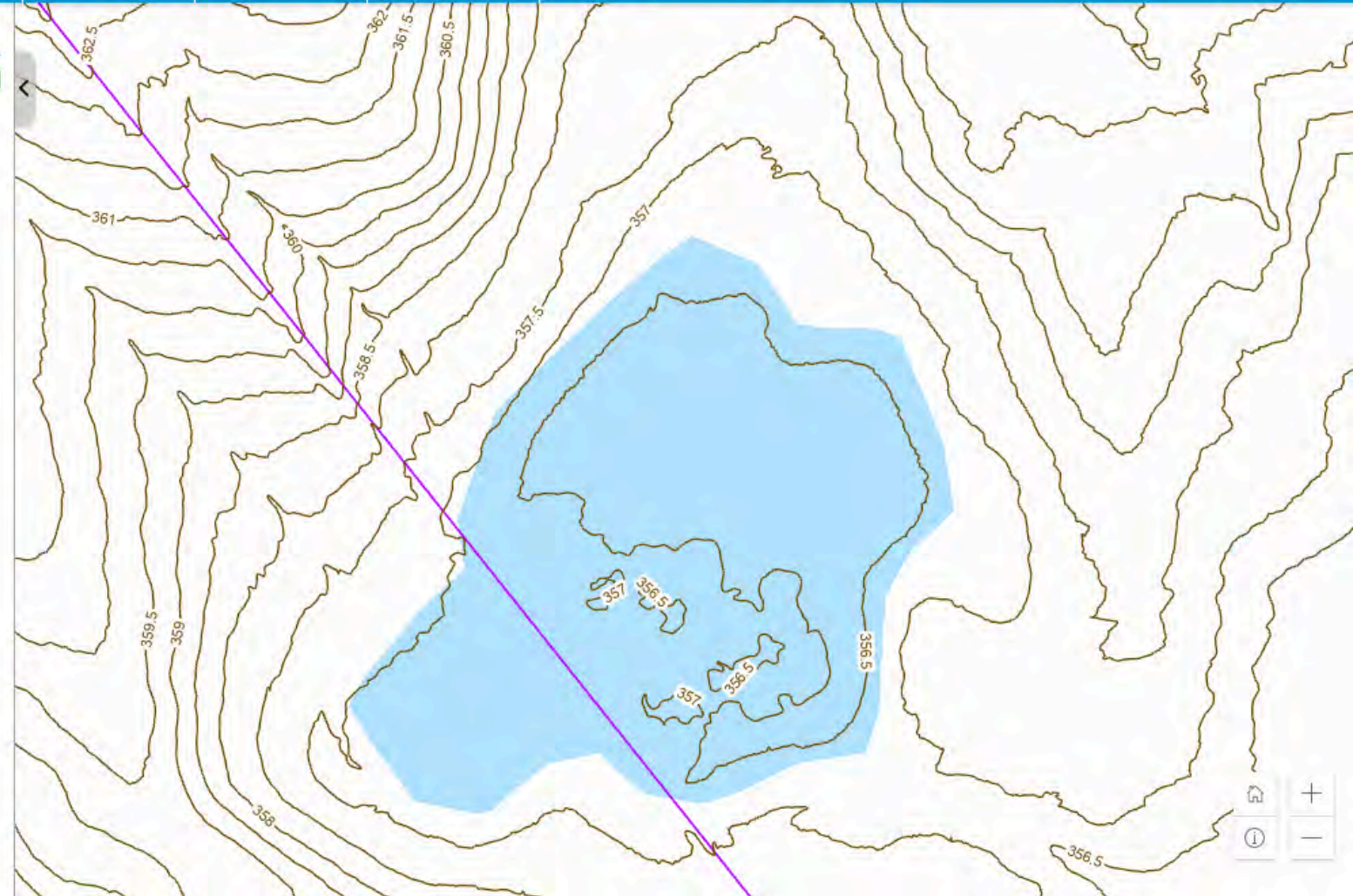


Layers

Themes

Search Layers

- Land Base
 - Jurisdictions
 - Policy / Regulations
 - Land Use
 - Heritage
 - Geology / Soil
 - Physiography
 - Terrain
 - ☒ Contour 0.5m - CGVD2013 (GRCA)
 - ☐ Slope Erosion (GRCA)
 - ☐ Slope Valley (GRCA)
- Hydrology
- Climate
- Hydrogeology
- Water Quality
- Source Water Protection
- Monitoring Sites
- Biology and Ecology
- Infrastructure
- Land Management
- Base Layers



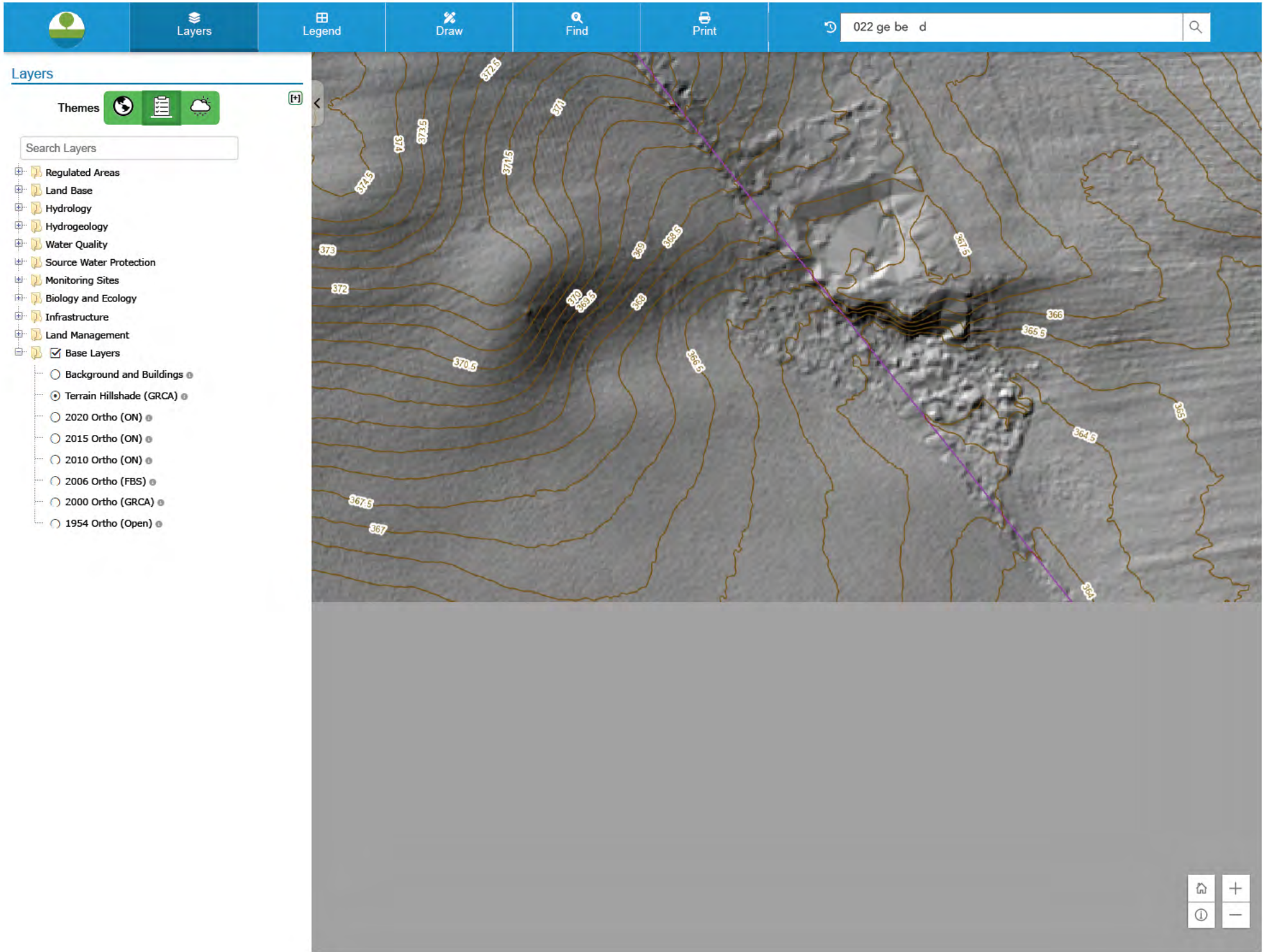


Exhibit “**G**” to the Affidavit of Cory Kittel

Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.



Cory Kittel <corykittel@gmail.com>

Re: Tile Plan Gawron Property

Christine Gawron [REDACTED] >
To: John Kuntze <jkuntze@ksmart.ca>
Cc: [REDACTED]

Tue, Apr 24, 2018 at 5:09 PM

Hi John,

Thank you very much for sending me a copy of your email to Cory Kittel with the attached memo outlining the involvement of Wilmot Township in regards to our tile plan.

I will share this information with my family, and believe they'll agree that it is in our best interests as neighbours with the Kittel's to try to reach a mutually beneficial agreement first, rather than going through the Drainage Act process to determine a resolution. Furthermore, the second option you described as a Mutual Agreement Drain, appears to have the most potential benefit to both our parties.

I would hope the Kittel Family will come to the same conclusion, and be willing to work out an agreement with us?

Much Thanks Again,
Chris Gawron

On Tue, Apr 24, 2018 at 10:39 AM, John Kuntze <jkuntze@ksmart.ca> wrote:

Hi Cory

I had discussed with you the tile drainage plans for the Gawron property last November.

Unfortunately I got tied up with other projects last winter and did not have a chance to send you any information about our discussion.

Please note that as outlined in the attached memo Wilmot Township has no direct involvement in the tile drainage work proposed for the Gawron property. The need for a tile outlet through the Kittel property is a private matter that will need to be worked out between neighbours. However, as Township Drainage Superintendent I am willing to help both parties work together for a resolution of a drainage issue.

Please review the attached memo for further information.

I would be pleased to meet with you on-site to review the area in question and to review the memo I have prepared.

This can be an early evening meeting (6pm or later) if that works better for you.

John Kuntze, Drainage Superintendent

Wilmot Township

From: Cory Kittel [mailto: [REDACTED]]
Sent: Friday, November 24, 2017 11:37 AM
To: John Kuntze <jkuntze@ksmart.ca>
Subject: Tile Plan Gowron Property

Hey John,

I never got your email for the plan for tiling the Gowron property. Can you send that again.

Cory Kittel



Cory Kittel <corykittel@gmail.com>

Re: Tile Plan Gowron Property

Cory Kittel [REDACTED]
To: John Kuntze <jkuntze@ksmart.ca>

Fri, Apr 27, 2018 at 11:08 AM

Sounds good

On Fri, Apr 27, 2018 at 11:07 AM John Kuntze <jkuntze@ksmart.ca> wrote:

Hi Cory

I am tied up at the moment.

Can I call you around 1pm.

John

From: Cory Kittel [mailto:[REDACTED]]
Sent: Friday, April 27, 2018 10:45 AM
To: John Kuntze <jkuntze@ksmart.ca>
Subject: Re: Tile Plan Gowron Property

John, can you call me. I want to ask you a few questions on this.

[REDACTED]

On Tue, Apr 24, 2018 at 10:39 AM John Kuntze <jkuntze@ksmart.ca> wrote:

Hi Cory

I had discussed with you the tile drainage plans for the Gawron property last November.

Unfortunately I got tied up with other projects last winter and did not have a chance to send you any information about our discussion.

Please note that as outlined in the attached memo Wilmot Township has no direct involvement in the tile drainage work proposed for the Gawron property. The need for a tile outlet through the Kittel property is a private matter that will need to be worked out between neighbours. However, as Township Drainage Superintendent I am willing to help both parties work together for a resolution of a drainage issue.

Please review the attached memo for further information.

I would be pleased to meet with you on-site to review the area in question and to review the memo I have prepared.

This can be an early evening meeting (6pm or later) if that works better for you.

John Kuntze, Drainage Superintendent

Wilmot Township

From: Cory Kittel [mailto:]

Sent: Friday, November 24, 2017 11:37 AM

To: John Kuntze <jkuntze@ksmart.ca>

Subject: Tile Plan Gowron Property

Hey John,

I never got your email for the plan for tiling the Gowron property. Can you send that again.

Cory Kittel

April 24, 2018

K. SMART ASSOCIATES LTD.
85 McIntyre Dr, Kitchener, ON N2R 1H6
519-748-1199 ext 227 jkuntze@ksmart.ca

File No. 85042

MEMO TO: Corey Kittel and Chris Gawron

FROM: John Kuntze P.Eng.
Wilmot Township Drainage Superintendent

RE: Gawron tile outlet across Kittel property

Background

I first want to note that the Township of Wilmot has no direct involvement in the tile drainage work proposed for the Gawron property. The need for a Gawron tile outlet through the Kittel property is a private matter that will need to be worked out between neighbours.

However, as Township Drainage Superintendent I am willing to help both parties work together for a resolution of a drainage issue.

It is common in rural Ontario that for a small area drainage issue only involving two properties that the farmers would work together on a mutual agreement drain.

The Township of Wilmot would only become involved if the drainage issue cannot be resolved privately by agreement and one of the affected parties would file a petition for a drainage works under the Drainage Act. The Township would then appoint an Engineer to prepare a report for a drain. The report and the Drainage Act process would create a municipal drain under a Township Bylaw. The Township would arrange for the construction of the drain and would be responsible for future maintenance of the drain. However, all costs associated with the drain report, the construction of the drain and the future maintenance of the drain would be assessed to the affected landowners. Examples of municipal drains in the area are the Koch-Leis Drain ditch which goes through the southwest corner of the Gawron farm and the Straus Drain ditch which outlets into Bamberg Creek on the east middle of the Kittel farm.

For the current outlet issue I think a mutual agreement between two owners would be a more practical and economical solution than going through the Drainage Act process to create the drain required.

Existing Drainage

The area in question is a low depressional area on the west boundary of the Kittel farm. Part of this low area extends westerly in to the Gawron farm. The attached 2015 aerial photograph from the GRCA website illustrates the low depressional area in question as this area cannot currently be farmed. A depressional area has no direct outlet for surface drainage and thus will remain wet for long periods of time. Depressional areas can usually not be farmed unless they are tile drained. The natural outlet for the depressional area in question is to the southeast to Bamberg Creek on the Kittel farm.

I believe that the depressional area on the Kittel and Gawron properties had a functional tile outlet in the past.

On the GRCA website one can examine aerial photograph from 2015 back to 2000. On the 2000 and 2006 aerial photograph it appears that most of the depressional area on both farms may have been under cultivation. The 2010 aerial photography shows considerable

flooding in the low area on the Kittel farm and the 2015 aerial photograph shows the low area on both farms can no longer be cultivated.

At some time since 2006 the tile drain became nonfunctional due to lack of repair. An on-site examination would be required to determine if a tile drain exists and if it requires repair.

Gawron Tile Drainage Plan

The Gawron family plans to systematically tile their farm. A copy of the proposed tile drain plan which has been prepared by a tile drainage contractor is attached. The majority of the Gawron farm tile drainage will outlet into the Koch-Leis Drain ditch in the southwest corner of the farm. However, as shown on the second tile plan attachment approximately 5 acres of the Gawron farm including the low area will require a tile outlet southeasterly through the low area on the Kittel farm and continuing to an outlet into Bamberg Creek. The final attachment shows an enlargement of the location for the proposed tile outlet which I feel may follow the route of a possible old tile drain.

It would be more practical and effective to install a new tile drain rather than repair an old tile drain.

The Kittel farm is not obligated to provide a tile outlet for the Gawron farm or to accept a tile drain constructed by the Gawron farm across the Kittel farm.

However, in my opinion, I see no reason for the Kittel farm to deny the Gawron farm to have a tile outlet across the Kittel farm. I believe such a tile drain would be of benefit to the Kittel farm.

Mutual Agreement Drain

There are two options that can be considered for a tile drain outlet.

Option 1

The Kittel farm could grant permission for the Gawron farm to construct a tile drain across the Kittel farm that would only provide an outlet for the Gawron farm. Though I have not done any detailed design calculations I would estimate that such a tile would be 4" or 6" diameter solid corrugated plastic tubing. This tile would not provide any local drainage or a tile outlet for future drainage of the low area on the Kittel farm.

For this option I would assume that the Kittel farm would not contribute to the cost of the Gawron tile.

Option 2

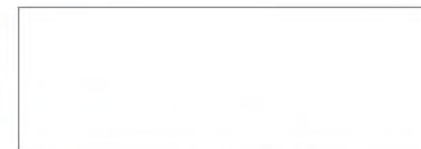
A tile drain would be constructed across the Kittel farm that would be large enough to provide an outlet for drainage of the low area on the Kittel farm. Again, I am estimating that such a tile would be 6" or 8" diameter perforated corrugated plastic tubing. This tile would provide local drainage and would provide for a tile outlet for additional tile drainage in the low area on the Kittel farm.

For this option I would assume there would be a cost sharing between the Kittel farm and the Gawron farm for the construction of the drain.

Regardless of which option is used, I would recommend that a mutual agreement be completed between the Gawron and Kittel farms outlining details for the drain constructed. This agreement could then be registered on title for the two properties. The Drainage Act makes reference to private mutual agreement drains and a template is available for such an agreement.



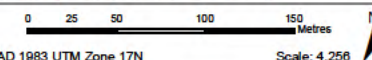
Grand River
Conservation Authority
Date: Apr 24, 2018



Legend

Parcel - Assessment Public
(MPAC/MNRF)

Copyright Grand River Conservation Authority, 2018.
Disclaimer: This map is for illustrative purposes only. Information contained herein is not a substitute for professional review or a site survey and is subject to change without notice. The Grand River Conservation Authority takes no responsibility for, nor guarantees, the accuracy of the information contained on this map. Any interpretations or conclusions drawn from this map are the sole responsibility of the user.
The source for each data layer is shown in parentheses in the map legend. For a complete listing of sources and citations go to: <https://maps.grandriver.ca/Sources-and-Citations.pdf>



Map Centre (UTM NAD83 z17): 524,577 26 4,813,196.65

This map is not to be used for navigation | 2015 Ortho (ON)

NAD 1983 UTM Zone 17N

Scale: 4,256

GRCA

TILE DRAINAGE PROPOSAL
30' SPACING
1/2" DRAINAGE COEFFICIENT

JanAnna CORP
1184 GERBER ROAD

WILMOT TOWNSHIP
CONCESSION 3
BLOCK "B"
LOT 10

KEY TO PLAN

- 4" PLASTIC TILE
- 6" PLASTIC TILE
- 8" PLASTIC TILE
- 10" PLASTIC TILE
- 12" PLASTIC TILE
- 15" PLASTIC TILE
- 18" PLASTIC TILE
- EXISTING TILE
- LINE FENCE
- EDGE OF FIELD
- EDGE OF BUSH

IMPERIAL MEASUREMENTS
DESIGN BY: Keith Frey



- MATERIAL LIST:
97,223' - 4"
1,447' - 6"
400' - 8"
806' - 10"
143' - 12"

NOTES:

- THIS DESIGN HAS BEEN PROVIDED TO SHOW THE BEST LOCATION FOR DRAINAGE OUTLETS. IT IS THE RESPONSIBILITY OF THE CUSTOMER OR CONTRACTOR TO SECURE PERMITS FROM THE LOCAL CONSERVATION AUTHORITY OR TOWNSHIP OR SECURE PERMISSION FROM DOWNSTREAM LANDOWNER FOR OUTLETS WHEN APPLICABLE.
- RESPONSIBILITY OF CONTRACTOR OR LANDOWNER TO ENSURE THAT ALL UTILITIES HAVE BEEN LOCATED


SCALE 1" = 250'



Grand River
Conservation Authority
Date: Apr 24, 2018



Legend

 Parcel - Assessment Public
(MPAC/MNRF)

Copyright Grand River Conservation Authority, 2018.
Disclaimer: This map is for illustrative purposes only. Information contained herein is not a substitute for professional review or a site survey and is subject to change without notice. The Grand River Conservation Authority takes no responsibility for, nor guarantees, the accuracy of the information contained on this map. Any interpretations or conclusions drawn from this map are the sole responsibility of the user.
The source for each data layer is shown in parentheses in the map legend. For a complete listing of sources and citations go to: <https://maps.grandriver.ca/Sources-and-Citations.pdf>

0 12.5 25 50 75 Metres

NAD 1983 UTM Zone 17N

Scale: 2,128



Map Centre (UTM NAD83 z17): 524,765 33 4,813,030.82

This map is not to be used for navigation | 2015 Ortho (ON)

GRCA

Exhibit “H” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.

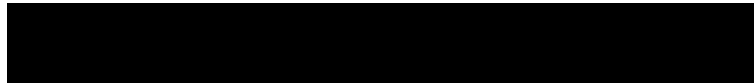


Commissioner for Taking Affidavits, etc.



Exhibit "I" to the Affidavit of Cory Kittel

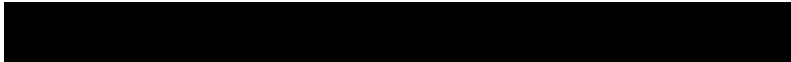
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Please see Video on OneDrive.

Exhibit “J” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.



Ontario

Ministry of Agriculture,
Food and Rural Affairs

Petition for Drainage Works by Owners Form 1

Drainage Act, R.S.O. 1990, c. D.17, clause 4(1)(a) or (b)

This form is to be used to petition municipal council for a new drainage works under the *Drainage Act*. It is not to be used to request the improvement or modification of an existing drainage works under the *Drainage Act*.

To: The Council of the Corporation of the Township of Wilmot

The area of land described below requires drainage (provide a description of the properties or the portions of properties that require drainage improvements)

N1/2 Lot 10, Concession 3B, 1184 Gerber Road

In accordance with section 9(2) of the *Drainage Act*, the description of the area requiring drainage will be confirmed or modified by an engineer at the on-site meeting.

As owners of land within the above described area requiring drainage, we hereby petition council under subsection 4(1) of the *Drainage Act* for a drainage works. In accordance with sections 10(4), 43 and 59(1) of the *Drainage Act*, if names are withdrawn from the petition to the point that it is no longer a valid petition, we acknowledge responsibility for costs.

Purpose of the Petition (To be completed by one of the petitioners. Please type/print)

Contact Person (Last Name) <u>Gawron</u>	(First Name) <u>Lucy</u>	Telephone Number 
---	-----------------------------	---

Address	
Road/Street Number <u>1184</u>	Road/Street Name <u>Gerber Road</u>

Location of Project			
Lot <u>N1/2 Lot 10</u>	Concession <u>3B</u>	Municipality <u>Wilmot</u>	Former Municipality (if applicable)

What work do you require? (Check all appropriate boxes)

- ☐ Construction of new open channel
☒ Construction of new tile drain
☐ Deepening or widening of existing watercourse (not currently a municipal drain)
☐ Enclosure of existing watercourse (not currently a municipal drain)
☐ Other (provide description ▼)

Name of watercourse (if known)
not applicable

Estimated length of project
500m

General description of soils in the area
clay loam

What is the purpose of the proposed work? (Check appropriate box)

- ☐ Tile drainage only ☐ Surface water drainage only ☒ Both

Petition filed this 26 day of April, 2021

Name of Clerk (Last, first name)

Mittelholz, Dawn

Signature



- Your municipal property tax bill will provide the property description and parcel roll number.
- In rural areas, the property description should be in the form of (part) lot and concession and civic address.
- In urban areas, the property description should be in the form of street address and lot and plan number if available.
- If you have more than two properties, please take copy(ies) of this page and continue to list them all.


Number	Property Description	Parcel Roll Number
1	N1/2 Lot 10, Concession 3B	3018-090-009-164
Ward or Geographic Township		
Wilmot		

I hereby petition for drainage for the land described and acknowledge my financial obligations.

Ownership

<input type="checkbox"/> Sole Ownership		
Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)

<input type="checkbox"/> Partnership (Each partner in the ownership of the property must sign the petition form)		
Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)

<input checked="" type="checkbox"/> Corporation (The individual with authority to bind the corporation must sign the petition)		
Name of Signing Officer (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)
Krupnik, Walter		2021/04/26
Name of Corporation		
Jananna Corp		
Position Title		
President		

Number	Property Description	Parcel Roll Number
Ward or Geographic Township		

I hereby petition for drainage for the land described and acknowledge my financial obligations.

Ownership

<input type="checkbox"/> Sole Ownership		
Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)

<input type="checkbox"/> Partnership (Each partner in the ownership of the property must sign the petition form)		
Owner Name (Last, First Name) (Type/Print)	Signature	Date (yyyy/mm/dd)

<input type="checkbox"/> Corporation (The individual with authority to bind the corporation must sign the petition)		
Name of Signing Officer (Last, First Name) (Type/Print)	Signature	
Name of Corporation		
Position Title		

<input type="checkbox"/> Check here if additional sheets are attached	Clerk initial
---	---------------

Petitioners become financially responsible as soon as they sign a petition.

- Once the petition is accepted by council, an engineer is appointed to respond to the petition. *Drainage Act*, R.S.O. 1990, c. D. 17 subs. 8(1).
- After the meeting to consider the preliminary report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible in equal shares for the costs. *Drainage Act*, R.S.O. 1990, c. D. 17 subs. 10(4).
- After the meeting to consider the final report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible for the costs in shares proportional to their assessment in the engineer's report. *Drainage Act*, R.S.O. 1990, c. D. 17 s. 43.
- If the project proceeds to completion, a share of the cost of the project will be assessed to the involved properties in relation to the assessment schedule in the engineer's report, as amended on appeal. *Drainage Act*, R.S.O. 1990, c. D. 17 s. 61.

Notice of Collection of Personal Information

Any personal information collected on this form is collected under the authority of the *Drainage Act*, R.S.O. 1990, c. D.17 and will be used for the purposes of administering the Act. Questions concerning the collection of personal information should be directed to: where the form is addressed to a municipality (*municipality to complete*)

and where the form is addressed to a territory without municipal organization, the Drainage Coordinator, Ministry of Agriculture, Food and Rural Affairs, 1 Stone Rd W, Guelph ON N1G 4Y2, 519 823-3552.



Region of Waterloo

Legend

- Addresses
- ☐ Assessment Parcels



458.6 0 229.31 458.6Meters

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Regional Municipality of Waterloo, 2013

Parcels © Teranet Land Information Services Inc. and its licensors, 2013
May not be reproduced without permission. THIS IS NOT A PLAN OF SURVEY

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

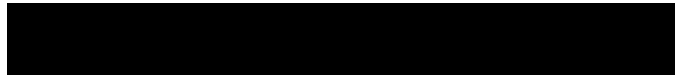
Notes

Summary of Comments on 2021-04-26 Petition .pdf

Page: 3

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Exhibit “K” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.



Council Meeting Minutes

Monday, May 17, 2021

Closed Council Meeting

6:00 P.M.

Regular Council Meeting

7:00 P.M.

Members Present: Mayor L. Armstrong, Councillors A. Hallman, C. Gordijk, B. Fisher, J. Gerber and J. Pfenning

Staff Present: Acting Chief Administrative Officer / Director of Parks, Facilities and Recreation S. Jackson, Director of Information and Legislative Services D. Mittelholtz, Director of Public Works J. Molenhuis, Director of Development Services H. O'Krafka, Director of Corporate Services / Treasurer P. Kelly, Fire Chief R. Leeson, Director / Curator Castle Kilbride T. Loch, Manager of Information and Legislative Services / Deputy Clerk T. Murray, Manager of Planning / EDO A. Martin

1. MOTION TO CONVENE INTO CLOSED SESSION

Resolution No. 2021-95

Moved by: Councillor Seconded by: Councillor

THAT a Closed Meeting of Council be held on Monday, March 22, 2021 at 6:00 p.m. in accordance with Section 239(2) of the Municipal Act, 2001, for the purposes of:

- c) a proposed or pending acquisition or disposition of land by the municipality or local board

CARRIED.

2. MOTION TO RECONVENE IN OPEN SESSION

Resolution No. 2021-96

Moved by: Councillor C. Gordijk Seconded by: Councillor B. Fisher

THAT Council reconvenes in Open Session at 7:00 p.m.

CARRIED.

3. MOMENT OF SILENCE

4. LAND ACKNOWLEDGEMENT

4.1 Councillor A. Hallman read the Land Acknowledgement

5. ADDITIONS TO THE AGENDA

**6. DISCLOSURE OF PECUNIARY INTEREST UNDER THE MUNICIPAL
CONFLICT OF INTEREST ACT**

6.1 Councillor J. Gerber declared has an indirect conflict of interest in reference to Item 11.1.1 as a member of his family is employed by the applicant.

7. MINUTES OF PREVIOUS MEETINGS

7.1 Council Meetings Minutes Monday April 26, 2021

Resolution No. 2021-97

Moved by: Councillor C. Gordijk Seconded by: Councillor A. Hallman

THAT the minutes of the following meetings be adopted as presented:

Regular Council Meeting April 26, 2021.

CARRIED.

Resolution No. 2021-98

Moved by: Councillor B. Fisher Seconded by: Councillor C. Gordijk

THAT delegation registered for matters not on the Agenda be allowed 5 minutes each to address Council.

DEFEATED.

Members of Council discussed the proposed procedural amendment for the meeting and suggested that insufficient notice had been given to the delegates. Staff was directed to review the delegation portions of the Procedural By-law as part of the review currently taking place.

8. PUBLIC MEETINGS

8.1 REPORT NO. DS 2021-017

Zone Change Application 06/21

Concept Development Group In

**Part of Lot 14, Concession North of Snyder's Road Parts 1 and 2,
Plan 58R-1966**

162 Snyder's Road East, Baden

Resolution No. 2021-99

Moved by: Councillor B. Fisher

Seconded by: Councillor J. Pfenning

THAT Report DS 2021-017 be received for information.

CARRIED.

The Manager of Planning / EDO outlined the report.

Andrea Sinclair, MHBC Planning, presented an overview of development. The presentation is attached as Appendix A. Council raised concerns over the suggested parking and Ms. Sinclair noted that those details are still being refined.

Jennifer Zielman appeared as a delegation, expressing concerns over the reduced set back and impacts on privacy for her property.

The Manager of Planning / EDO clarified that the reduced set back and visibility provisions would be highlighted in subsequent reports to Council.

O'Derald Gingerich appeared as a delegation and expressed his concerns over the proposed size of the development could potentially house 100 residents making it the largest residential building in Baden. He noted concerns over the height of the building and visitor parking.

Natasha Salonen appeared as a delegation and expressed concerns the proposed development and the alignment with the Township Strategic Plan, noting that the proposed parking reductions would not be supported by alternative transportation as the transit schedule does not run 7 days a week. Ms. Salonen also expressed her concerns that the design and aesthetic of the building is not compatible with the countryside community. She expressed her concerns for the lack of outdoor living space and access to greenspace for future residents.

Jeff Pinkney appeared as a delegation, noting that his family shares the similar concerns to previous delegations and encouraged reconsideration of an appropriate size building for the site.

9. PRESENTATIONS

9.1 KW Hydro Annual Report

Mr. Jerry VanOoteghem, KW Hydro Corporation

Mr. Jim Philips, KPC Chair

Resolution No. 2021-100

Moved by: Councillor J. Pfenning Seconded by: Councillor A. Hallman

THAT the audited financial statements of Kitchener Power Corporation for the year ended December 31, 2020 as audited by KPMG LLP, as presented, are hereby received; and,

THAT Mr. James Phillips, Ms. Rosa Lupo and during their tenure, Mayor Berry Vrbanovic, Mayor Les Armstrong, Mr. Dave Schnider, Mr. Paul Singh and President & CEO Mr. Jerry Van Ooteghem be hereby elected Directors of Kitchener Power Corporation for the ensuing year; and,

THAT KPMG, LLP be hereby appointed as Auditors of Kitchener Power Corporation for the ensuing fiscal year and the Directors are authorized to set their remuneration.

CARRIED.

Mr. Jerry VanOoteghem and Mr. Jim Philips provided a presentation on the KW Hydro Annual Report. The presentation is attached as Appendix B.

Mr. VanOoteghem answered Council inquiry that the work from home data they had collected showed a 7.9% increase in residential usage while other classifications saw decreases in demand.

Council thanked KW Hydro for the community supports they continue to show.

10. CONSENT AGENDA

10.1 PW 2021-012

Annual OSIM Inspections Program – Award of Contract

10.3 ILS 2021-17

Newdale Farm (Stewart Good) Petition and Badenview (Patrick George) Petition – Engineer Appointment Transfer

10.4 ILS 2021-18

**Receipt of Petition for Drainage Works
1184 Gerber Road, N ½ Lot 10, Concession 3B
Township of Wilmot**

10.5 COR 2021-018

Municipal Collaboration, Joint Township ESRI ELA

Resolution No. 2021-101

Moved by: Councillor J. Pfenning Seconded by: Councillor J. Gerber

THAT Report Nos. PW 2021-012, ILS 2021-17, ILS 2021-18 and COR 2021-018 be approved.

CARRIED, AS AMENDED.

10.2 PW 2021-011

Annual Concrete Sidewalk Program – Award of Contract

Resolution No. 2021-102

Moved by: Councillor C. Gordijk

Seconded by: Councillor J. Pfenning

THAT RFT 2021-13 be awarded to Chad Hartman Construction of St. Pauls, Ontario for the Annual Concrete Sidewalk Program, as per their bid submission dated April 14, 2021, in the amount of \$64,350.00, plus HST.

CARRIED.

The Director of Public Works and Engineering confirmed that the minor spot repairs in Manheim will be on Milne Drive, Knechtel Court and in New Dundee on Queen Street and Bridge Street.

11. REPORTS

11.1 DEVELOPMENT SERVICES

11.1.1 REPORT DS 2021-018

Zone Change Application 04/20

Miller Boys Inc. /

Dryden, Smith & Head Planning Consultants

142-148 Snyder's Road West, Baden

Resolution No. 2021-103

Moved by: Councillor B. Fisher

Seconded by: Councillor J. Pfenning

THAT Council approve Zone Change Application 04/20 made by Miller Boys Inc. / Dryden, Smith & Head Planning Consultants, affecting Part of 16, Concession North of Snyder's Road, to amend the current zoning to:

- permit 18 dwelling units in form of single-detached, semi-detached, townhome and apartments;
- reduce the overall required parking on site from 27 spaces to 26 spaces;
- reduce the required west side yard setback from 2.0m to 1.2m;
- reduce the required rear yard setback from 7.5m to 2.3m; and
- apply a holding symbol (H) that requires the approval of a noise study and archaeological assessment, and demonstration that sanitary sewer infrastructure constraints have been addressed, prior to development.

CARRIED.

The Manager of Planning / EDO outlined the report.

Nathan Riedel appeared as a delegation and expressed concerns with the proximity of the development to his property and requested that the development be reduced to a two-story structure. Mr. Riedel also expressed concerns for the parking allocations for the development.

Sam Head, Dryden, Smith & Head Planning Consultants, provided an overview of the status of the development project, noting that any concerns from delegations will be discussed with Township staff. Mr. Head advised Council that the project is designed for seniors, noting that the drainage report has been submitted to the Township and the final site plan process will address any issues. He advised that in terms of the building height, he would have further discussions with the applicant.

The Manager of Planning / EDO advised that the zoning regulates the height of the buildings, noting that the zoning allows for 10.5 meters.

12. CORRESPONDENCE

13. BY-LAWS

13.1 By-law No. 2021-27

Zone Change Application 04/20

Resolution No. 2021-104

Moved by: Councillor A. Hallman

Seconded by: Councillor J. Gerber

THAT By-law Nos. 2021-27 be introduced, read a first, second and third time and finally passed in Open Council.

CARRIED.

14. NOTICE OF MOTIONS

15. ANNOUNCEMENTS

15.1 Councillor A. Hallman congratulated Marilyn Saurus of New Dundee was recognized for her continued volunteering in the Township.

15.2 Councillor J. Pfenning reminded everyone to do one small thing everyday for themselves to recharge and help get through these challenging times.

16. DELEGATIONS

The following persons appeared as delegations in relation to the proposed Hallman Pit. Any prewritten statements provided will be included in the appendices as noted.

- 16.1 Rory Farnan and Samantha Lernout, Citizens for Safe Ground Water, Appendix C.
- 16.2 Dorothy Wilson, Appendix D.
- 16.3 Linda Laepple, Appendix E.
- 16.4 Dave Prong, appeared as a delegation and expressed his concerns for the proposed Hallman Pit, noting objections to the proposal and the need to protect the farmland that would be lost. He noted concerns for the ground water, wetlands and animal habitat impacts that could result from the development.
- 16.5 Mark Gordon appeared as a delegation and expressed his concerns on the climate change impacts and the potential health impacts on the residents in the surrounding area.
- 16.6 Christina Harnack, Appendix F.
- 16.7 David Bricker appeared as a delegation, expressing concerns for noise, nature and health impacts as a result of the operations of the proposed gravel pit.
- 16.8 Laverne Forwell appeared as a delegation and expressed his concerns on the impacts the proposed Hallman Pit could have on the natural area.

17. BUSINESS ARISING FROM CLOSED SESSION

Resolution No. 2021-105

Moved by: Councillor A. Hallman

Seconded by: Councillor C. Gordijk

THAT Confidential Report PFRS 2021-09 be received for information; and further,

THAT Council accepts the generous donation of land from Wolfgang, Regina, Ekk and Jenn Pfenning, for passive recreational use, and that this natural area be named in memory of Andreas Pfenning; and further,

THAT the Township assume all surveying and legal costs associated with the transfer; and

THAT, the Township provide a tax receipt in an amount determined by an independent certified appraisal the cost of which, including any review by the Township solicitor, would be borne by the Township.

CARRIED.

18. CONFIRMATORY BY-LAW

18.1 By-law No. 2021-28

Resolution No. 2021-106

Moved by: Councillor B. Fisher

Seconded by: Councillor C. Gordijk

THAT By-law No. 2021-28 to Confirm the Proceedings of Council at its Meeting held on May 17, 2021 be introduced, read a first, second, and third time and finally passed in Open Council.

19. ADJOURNMENT (10:14 p.m.)

Resolution No. 2021-107

Moved by: Councillor A. Hallman

Seconded by: Councillor J. Pfenning

THAT we do now adjourn to meet again at the call of the Mayor.

CARRIED.

Exhibit “L” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.



INFORMATION AND LEGISLATIVE SERVICES *Staff Report*

REPORT NO: ILS 2021-27

TO: Council

SUBMITTED BY: Dawn Mittelholtz, Director of Information and Legislative Services /
Municipal Clerk

PREPARED BY: Tracey Murray, Manager of Information and Legislative Services /
Deputy Clerk

REVIEWED BY: Sandy Jackson, Interim CAO

DATE: July 12, 2021

SUBJECT: Appointment of Drainage Engineer
1184 Gerber Road, N ½ Lot 10, Concession 3B
Township of Wilmot

RECOMMENDATION:

THAT Headway Engineering be appointed as Drainage Engineer to prepare the Engineer's Report relative to the petition for drainage works received from Lucy Gawron, 1184 Gerber Road, N ½ Lot 10, Concession 3B, Township of Wilmot.

SUMMARY:

For the Gawron Petition Drain, the next step is to appoint a Drainage Engineer to complete the Engineer's Report. Council is being asked to appoint Headway Engineering for this drain.

BACKGROUND:

Lucy Gawron submitted and file a petition with the Clerk on April 27, 2021, to construct a new tile drain for the following lands: N ½ Lot 10, Concession 3B, 1184 Gerber Road, Township of Wilmot.

REPORT:

Following the acceptance of the petition by Council, staff forwarded the notice to the petitioner and the required agencies; the Grand River Conservation Authority and the Ministry of Natural Resources and Forestry. At the time of writing this report, no comments have been received from the agencies noted above.

If appointed, the Drainage Engineer will conduct a site meeting where all property owners within the drainage watershed area will be invited to discuss the matter, ask questions and learn about the process.

ALIGNMENT WITH THE TOWNSHIP OF WILMOT STRATEGIC PLAN:

The appointment of the Drainage Engineer and continued application of the Drainage Act supports the infrastructure within the municipality.

FINANCIAL CONSIDERATIONS:

If the municipal drainage works proceed pursuant to the Drainage Act, then the property owners that are affected would be assessed in accordance with the assessment schedule that will be prepared by the Engineer as part of their report. At this time, there are no financial considerations.



Council Meeting Minutes

Monday, July 12, 2021

Council Meeting

Electronic Online Participation

7:00 P.M.

Members Present: Mayor L. Armstrong, Councillors A. Hallman, C. Gordijk, B. Fisher, J. Gerber and J. Pfenning

Staff Present: Acting Chief Administrative Officer / Director of Parks, Facilities and Recreation S. Jackson, Director of Information and Legislative Services D. Mittelholtz, Director of Public Works J. Molenhuis, Director of Development Services H. O’Krafka, Director of Corporate Services / Treasurer P. Kelly, Fire Chief R. Leeson, Director / Curator Castle Kilbride T. Loch, Manager of Information and Legislative Services / Deputy Clerk T. Murray

1. MOTION TO CONVENE INTO CLOSED MEETING (IF NECESSARY)

2. MOTION TO RECONVENE IN OPEN MEETING (IF NECESSARY)

3. MOMENT OF SILENCE

4. LAND ACKNOWLEDGEMENT

5.1 Councillor B. Fisher read the Land Acknowledgement.

5. ADDITIONS TO THE AGENDA

5.1 Consent Agenda – Item 11.4 Report PW 2021-015 Guide Rail Program – Award of Contract

Resolution No. 2021-144

Moved by: Councillor J. Pfenning Seconded by: Councillor C. Gordijk

THAT Item 11.4 be added to the agenda under CONSENT as Report PW 2021-015 Guide Rail Program – Award of Contract.

This information is available in accessible formats upon request

CARRIED.

**6. DISCLOSURE OF PECUNIARY INTEREST UNDER THE MUNICIPAL
CONFLICT OF INTEREST ACT**

None disclosed.

7. MINUTES OF PREVIOUS MEETINGS

7.1 Council Meetings Minutes Monday June 28, 2021, and July 5, 2021

Resolution No. 2021-145

Moved by: Councillor A. Hallman Seconded by: Councillor C. Gordijk

THAT the minutes of the following meetings be adopted as presented:

Regular Council Meeting June 28, 2021, and Special Council Meeting July 5, 2021.

CARRIED. AS AMENDED.

Mayor L. Armstrong advised that staff received Councillor A. Hallman's written statement from the July 5, 2021, Special Council Meeting after the Council Agenda Package was released and that the minutes will be amended to include that statement.

8. PUBLIC MEETINGS

9. PRESENTATIONS

9.1 Mike Schout Wetlands

Phil Holst

9.1.1 REPORT DS 2021-24

Mike Schout Wetland Preserve

Approvals Update

Resolution No. 2021-146

Moved by: Councillor C. Gordijk Seconded by: Councillor A. Hallman

THAT Report DS 2021-24 be received for information.

CARRIED.

The Director of Development Services outlined the report and introduced Phil Holst.

Mr. Holst provided an update on the Wetland Preserve, advising that on or about August 9th a permit from the Grand River Conservation Authority (GRCA) is expected to continue works. Currently, site preparation is being done for seeding in October, at which time approximately 30 acres of the 50 acres should be seeded with pollinator plants, with the lower section being wet meadow plantings. This past spring 4200 seedlings were planted by GRCA.

Mr. Holst advised that they will be inviting some of the local volunteer groups to assist with tree planting and educational tours.

It was also advised that installs of nesting platforms for blue herons, turtle nesting mounds, snake hibernaculum, and various birdhouses will be completed to promote an increase in the amount of wildlife.

Mr. Holst advised Council that it is not often that a project of this size and scale in a subdivision is proposed. He stated this project is very unique and has the potential to serve as inspiration for other communities.

Mr. Holst explained that deep water is considered to be 2 meters in depth, as this allows for the needs of wildlife for hibernation.

The Acting CAO advised that staff can investigate potential pollination planting on Township properties.

10. DELEGATIONS

11. CONSENT AGENDA

11.1 REPORT NO. ILS 2021-28

Noise By-law Exemptions

The Community Players (TCP)

11.2 REPORT NO. ILS 2021-27

Appointment of Drainage Engineer

1184 Gerber Road, N ½ Lot 10, Concession 3B

Township of Wilmot

11.3 REPORT NO. ILS 2021-29

Acceptance of Petition Drain and Appointment of Engineer

Derek Bruyn

2043 Bean Road, N ½ 30, Concession 3A

Township of Wilmot

11.4 REPORT NO. PW 2021.015

Guide Rail Program – Award of Contract

Resolution No. 2021-147

Moved by: Councillor J. Gerber

Seconded by: Councillor B. Fisher

THAT Report Nos. ILS 2021-28, ILS 2021-27, ILS 2021-29 and PW 2021-.015 be approved.

CARRIED.

12. REPORTS

12.1 INFORMATION AND LEGISLATIVE SERVICES

12.1.1 REPORT NO. ILS 2021-30

Proposed Procedural By-law

Resolution No. 2021-148

Moved by: Councillor J. Pfenning

Seconded by: Councillor C. Gordijk

THAT Report No. ILS 2021-30 be endorsed.

CARRIED. AS AMENDED.

The Director of Information and Legislative Services outlined the report.

The Director of Information and Legislative Services confirmed that Item 8.12, subsection A, can be changed to read the Chair shall determine by order of hand raised and administer the speaking order of Council.

The Director of Information and Legislative Services advised that staff have been having conversations on how to make these changes easily accessed and understood on the website and that the Land Acknowledgement will be posted in a more accessible location on the website.

The Acting CAO advised that one of the directions that came from the Special Council Meeting of July 5th was the community engagement improvements and noted that staff will be looking at when a public information centre may be a more appropriate in terms of hearing feedback from the public.

The Director of Information and Legislative Services advised that delegations do not propose recommendations to Council, rather they go through a member of Council to bring that forward or at the discretion of the Chair. It was also noted that staff work with delegations to assist them in navigating the rules of the By-law.

The Acting CAO confirmed that the solicitor did a thorough review of the By-law.

12.1.2 REPORT NO. ILS 2021-12

Records Retention

Resolution No. 2021-149

Moved by: Councillor J. Gerber

Seconded by: Councillor A. Hallman

THAT Council By-law 2021-37, a By-law to provide a schedule of retention periods for the records of the Township of Wilmot be approved and to repeal By-law No. 92-54.

CARRIED.

The Manager of Information and Legislative Services outlined the report.

The Acting CAO advised that the information being tracked through the 80x50 program will include additional tracking from the Sustainability Committee and the Director of Corporate Services advised that there is a third party tool that also tracks all data and records.

12.2 CORPORATE SERVICES

12.2.1 REPORT NO. COR 2021-026

Development Charges Update Study

Resolution No. 2021-150**Moved by: Councillor C. Gordijk****Seconded by: Councillor B. Fisher**

THAT the Development Charges Background Study, prepared by Watson & Associates Economists Ltd., as amended, be approved; and further,

THAT Council deems that no further public meeting is required; and

THAT the 2021 Development Charges by-law be approved, with an effective date of August 31, 2021.

CARRIED.

The Director of Corporate Services outlined the report.

The Acting CAO advised that the Region is currently going through a planning exercise of Library services and that an update is expected in early Fall.

12.3 PUBLIC WORKS AND ENGINEERING**12.3.1 REPORT NO. PW 2021-014****Wilmot-Waterloo Boundary Road Maintenance Agreement****Resolution No. 2021-151****Moved by: Councillor J. Pfenning****Seconded by: Councillor B. Fisher**

THAT Council approve and enter into an agreement with the City of Waterloo for the maintenance, repair and capital services for Wilmot Line; and further,

THAT the Mayor and Clerk be authorized to execute the attached Boundary Road Agreement between the City of Waterloo and the Township of Wilmot.

CARRIED.

The Director of Public Works and Engineering outlined the report.

The Director of Public Works and Engineering noted that there is an obligation to consult with various Indigenous Communities and other community partners.

The Director of Public Works and Engineering explained that an environmental assessment consists of a study and a report that looks at options for upgrades to consider for any given project.

12.4 DEVELOPMENT SERVICES

12.4.1 REPORT NO. DS 2021-023

Aggregate Zoning Status Review

Resolution No. 2021-152

Moved by: Councillor J. Pfenning Seconded by: Councillor J. Gerber

That is be deferred.

THAT Report DS 2021-023 be received for information.

DEFERRED.

Mayor L. Armstrong asked that Council consider deferring the report to allow for staff to complete a fuller public consultation process.

13. CORRESPONDENCE

13.1 Grand River Conservation Authority - Environmental Registry Posting 019-2986: Regulatory proposal (phase1) under the Conservation Authorities Act

13.2 Township of Wilmot – Annual Ombuds Report

Resolution No. 2021-153

Moved by: Councillor B. Fisher Seconded by: Councillor C. Gordijk

THAT Correspondence Item No. 13.1 and 13.2 be received for information.

CARRIED.

14. BY-LAWS

14.1 By-law No. 2021-36 Procedural By-law

14.2 By-law No. 2021-37**Schedule of Records Retention****14.3 By-law No. 2021-38****Development Charges Amending By-law****Resolution No. 2021-154****Moved by: Councillor C. Gordijk****Seconded by: Councillor J. Pfenning**

THAT By-law Nos. 2021-36, 2021-37 and 2021-38 be read a first, second and third time and finally passed in Open Council.

CARRIED. AS AMENDED.

15. NOTICE OF MOTIONS**16. ANNOUNCEMENTS**

16.1 Councillor J. Pfenning noted that July 18 to 24, 2021 is National Drowning Prevention Week and noted that everyone needs to be water smart all year round and that both the Life Saving Society and Township staff have information that can help.

16.2 Councillor A. Hallman asked that everyone continue to support local small business.

16.3 Councillor C. Gordijk noted that Thursday July 15, 2021, is the Annual Fundraiser held by Warren Bechtold.

16.4 Councillor C. Gordijk noted that The Community Players are presenting 5 shows in New Hamburg and are looking for volunteers and to contact them at operations@thecommunityplayers.com

17. BUSINESS ARISING FROM CLOSED SESSION**18. CONFIRMATORY BY-LAW****18.1 By-law No. 2021-39****Resolution No. 2021-155****Moved by: Councillor J. Pfenning****Seconded by: Councillor A. Hallman**

THAT By-law No. 2021-39 to Confirm the Proceedings of Council at its Meeting held on July 12, 2021 be introduced, read a first, second, and third time and finally passed in Open Council.

CARRIED.

19. ADJOURNMENT (8:19 PM)

Resolution No. 2021-156

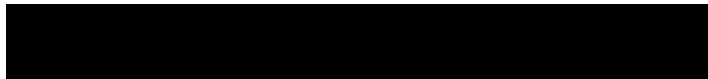
Moved by: Councillor J. Gerber

Seconded by: Councillor B. Fisher

THAT we do now adjourn to meet again at the call of the Mayor.

CARRIED.

Exhibit "**M**" to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

September 8, 2021

Tracey Murray
Manager of Information and Legislative Services / Deputy Clerk
Township of Wilmot
60 Snyder's Road West
Baden, Ontario N3A 1A1
tracey.murray@wilmot.ca

Dear Tracey,

**Re: On-Site Meeting
Jananna Municipal Drain (Gawron Petition)
Township of Wilmot
Our Reference No. WLMT-002**

In connection with the above noted project, please find enclosed a copy of the on-site meeting notice. Please notify the Mayor and Council of this meeting.

This notice has been sent to the people whose names appear on the attached list.

We wish to thank the Township of Wilmot for this opportunity to be of service.

Yours truly,

Stephen Brickman, P.Eng.
Project Engineer and Manager

HEADWAY ENGINEERING

SB/

cc: Bryan Bishop, C.E.T. – Manager of Engineering, Township of Wilmot
bryan.bishop@wilmot.ca

Tracey Murray
Manager of Information and Legislative Services /
Deputy Clerk
Township of Wilmot
60 Snyder's Road West
Baden, Ontario N3A 1A1
tracey.murray@wilmot.ca

Bryan Bishop, C.E.T.
Manager of Engineering
Township of Wilmot
60 Snyder's Road West
Baden, Ontario N3A 1A1
bryan.bishop@wilmot.ca

John Kuntze, P.Eng.
Drainage Superintendent
Township of Wilmot
85 McIntyre Drive
Kitchener, Ontario N2R 1H6
jkuntze@ksmart.ca

Steve van De Keere
Director of Transportation
Region of Waterloo
150 Frederick Street
Kitchener, Ontario N2G 4J3

Lucy Gawron
[REDACTED]
Wellesley, Ontario NOB 2T0

Cory & Kirby Kittle
[REDACTED]
Wellesley, Ontario NOB 2T0

Jananna Corp
264 Dearborn Blvd
Waterloo, Ontario N2J 4Y6

Natalee Ridgeway
[REDACTED]
St. Agatha, Ontario NOB 1L0

Ronald & Rosemary McCormick
[REDACTED]
St. Agatha, Ontario NOB 2L0

Trevor Heywood
Resource Planner
Grand River Conservation Authority
theywood@grandriver.ca

September 8, 2021

Dear Sir or Madam:

**Re: On-Site Meeting
Jananna Municipal Drain (Gawron Petition)
Township of Wilmot
Our Reference No. WLMT-002**

We have been appointed by the Council of the Township of Wilmot under Section 4 of the Drainage Act to investigate a petition the Township has received for the above noted Municipal Drain. Please find enclosed a preliminary plan of the drainage basin.

This is the initial meeting under the Drainage Act, and its primary purpose is for affected landowners to provide the engineer with information concerning the possible drainage works.

We will be present at 1184 Gerber Road on September 22nd at 10:00 A.M. to discuss the area and site of the possible drainage works. Please refer to the attached drawing showing the location of the meeting.

You, as an owner of land affected by this municipal drainage project, are asked to attend at such time and place if you have any questions or suggestions concerning the potential work.

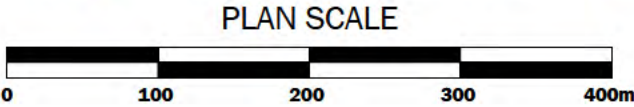
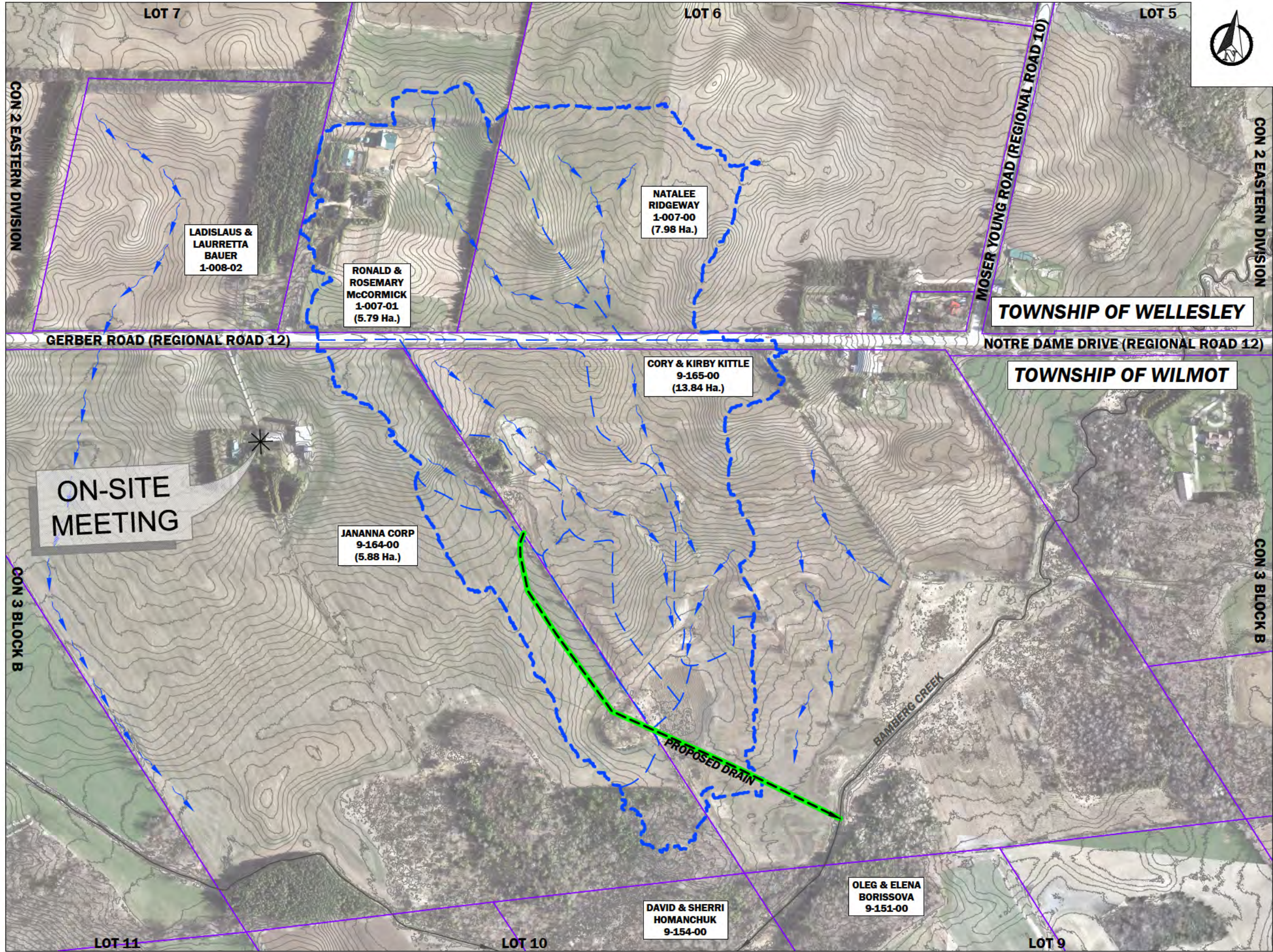
Furthermore, please bring to the meeting any tile maps that you may have for lands within the watershed as indicated on the attached plan.

If you have any questions beforehand, please telephone (226) 243 6614.

Yours truly,

Stephen Brickman, P.Eng.
Project Engineer and Manager
HEADWAY ENGINEERING

SB/



- NOTES:
- 2015 AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
 - CONTOURS GENERATED USING THE 2018 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

LOT/CONCESSION LINE
PROPERTY LINE

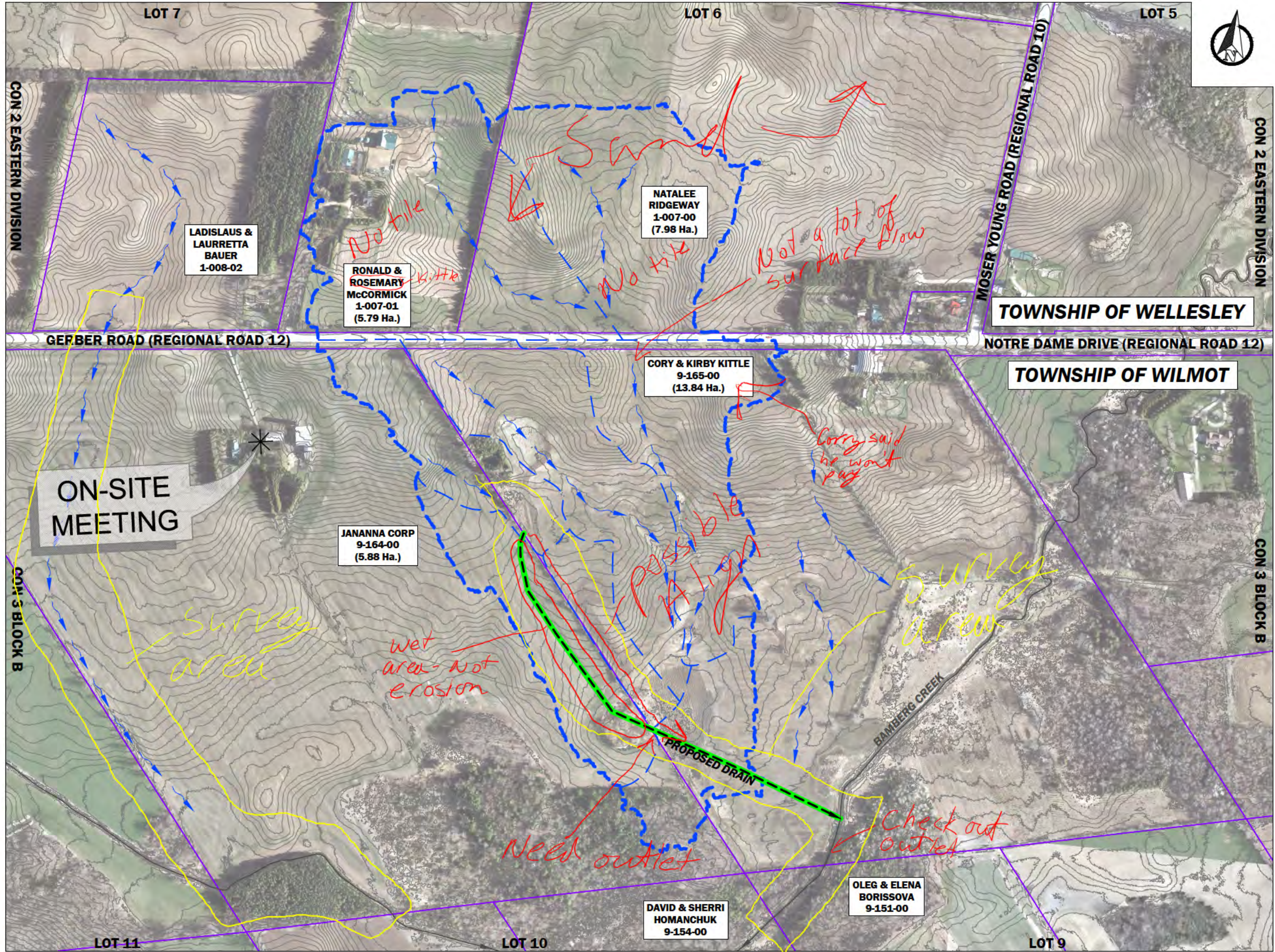
LANDOWNER NAME(S)
ASSESSMENT ROLL No. (ABBREVIATED)
AREA WITHIN WATERSHED
MAJOR WATERSHED BOUNDARY
MINOR WATERSHED BOUNDARY

EXISTING FEATURES:
DRAIN NAME
DRAIN NAME
C.B.
OVERLAND FLOW PATH

PROPOSED FEATURES:
DRAIN NAME
C.B.
CLOSED DRAIN WITH CATCH BASIN AND FLOW DIRECTION

1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)

DRAWN BY: s.b.	DESIGNED BY: s.b.	CHECKED BY: s.b.
DATE: 2021-09-22	REFERENCE No of WLMT-002	DRAWING No. 1 OF 1



NOTES:
1. 2015 AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
2. CONTOURS GENERATED USING THE 2018 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

LOT/CONCESSION LINE
PROPERTY LINE

**JOHN & JANE SMITH
12-345
(12.3 Ha.)**

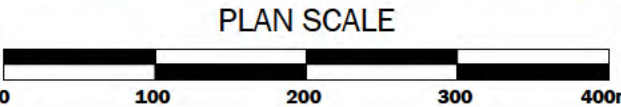
LANDOWNER NAME(S)
ASSESSMENT ROLL No. (ABBREVIATED)
AREA WITHIN WATERSHED

MAJOR WATERSHED BOUNDARY
MINOR WATERSHED BOUNDARY

EXISTING FEATURES:
DRAIN NAME OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
DRAIN NAME CLOSED DRAIN WITH CATCH BASIN AND FLOW DIRECTION
OVERLAND FLOW PATH

PROPOSED FEATURES:
DRAIN NAME CLOSED DRAIN WITH CATCH BASIN AND FLOW DIRECTION

1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)



Project: **Jananna Corp Drain**Reference No. **WLMT-002**By: **S.b.**Date: **September 22, 2021**

Checked By:

Page: **1 of 2**Subject: **Onsite Meeting – Sign-in Sheet**

Name	Organization or Property	Phone Number	Email Address
Stephen Brickman	Headway Engineering	226 243 6614	Stephen.brickman@headwayeng.ca
Adam Hall	Headway Engineering	226 243 6614	adam.hall@headwayeng.ca
John Kuntze	Wilmot & Wellesley Drain Super		
Lucy Gawron			
WALTER KRUPNIK			
Wayne & Irene Schneider			
Joel GRAMHAM	Row	519 500 0980	JGRAMHAM@KEGELCOOFWATERLOO.CA
Kenneth Kenner Renner	Row	519-584-5112	
Ron McCormick	1171 Gerber		
CHRISTINE GAWRON	JANANNA CORP		

Exhibit “N” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Re: Jananna Municipal Drain Review

Cory Kittel [REDACTED]

Thu, Sep 22, 2022 at 4:46 PM

To: Stephen Brickman <stephen.brickman@headwayeng.ca>

Cc: Adam Hall <adam.hall@headwayeng.ca>

I really can fathom how the project is even this far along when no one has been consulted or talked to yet. My most basic questions have been ignored. My neighbours have no idea what's going on. Why spend the money on a problem when perhaps a problem doesn't exist. Clearly there are some conflicting interests here. This is an individual matter so I'm not sure what I have to do with this? Am I supposed to take time off work for this meeting scheduled for 2pm on a weekday? It's like you don't want anyone to attend.

On Thu, Sep 22, 2022 at 4:23 PM Stephen Brickman <stephen.brickman@headwayeng.ca> wrote:

Hi Cory,

Thanks for your email.

These questions, and questions like it are exactly what we intend to address at next week's public meeting as we're sure others will have questions too. The following is a quick outline for next week.

- Introductions
- A recap of how we (Headway) became involved
- Our findings
 - Watershed area, and makeup
 - Our survey info (photos, Bamberg Creek, crossings, etc.)
 - Agency requirements
- Our proposed solution
 - The engineering dwgs and walk through of all the info on the dwgs
 - Plans
 - Profiles
 - Details
- Questions relating to design details (your questions No. 1, 3, and 4)
- Discussion on the costs of the project
- Discussion on the assessment of costs
 - Instruments of assessment available under the Drainage Act
 - What the instruments mean
 - How to apply them
 - And a detailed look at the assessment schedules.
- Questions relating to the costs (eg your questions No. 2 and 3)
- Drainage Act process moving forward
 - Next Steps
 - Timelines
 - Etc.
- Questions relating to Drainage Act process, or anything.

You didn't hear back from anybody yet regarding these questions because we haven't finished the necessary materials to address everything. We're close, but not all the way there (we will be next week). The main purpose of next week's meeting is to present all this material that we've been working on, and to receive feedback. Everything will be in draft format, and will not be final, so we want to receive input prior to finalizing everything.

I hope that explains these next few steps, and what to expect next week and we hope to see you there.

Thanks again for your email and Take Care Cory.

Stephen Brickman, P.Eng

Project Manager/Engineer | Headway Engineering

headwayeng.ca

P: 226 243 6614, Ext. 1

E: Stephen.Brickman@headwayeng.ca

From: Cory Kittel [REDACTED]
Sent: September 22, 2022 2:12 PM
To: Stephen Brickman <stephen.brickman@headwayeng.ca>; Adam Hall <adam.hall@headwayeng.ca>
Subject: Re: Jananna Municipal Drain Review

Hi,

I'm still looking for the answers to the below questions. For the record, I never did hear back from anyone on this. I will say the information to-date has been limited to basically non-existent. I've been tracking this parcel for close to a year now and have recorded drone footage that does not indicate any issues.

From: Stephen Brickman
Sent: November 8, 2021 2:00 PM
To: Cory Kittel [REDACTED]
Subject: RE: Jananna Municipal Drain Review

Hey Cory,

We did get your email – Thanks for providing your comments/concerns/questions! And sorry for not acknowledging them earlier.

As we move forward, we'll be looking to you (and others) to help us sculpt out the best solution. We'll definitely be staying in touch, and we'll be able to better answer the questions below.

Thanks Cory, and keep in touch!

Stephen Brickman, P.Eng

Project Manager/Engineer | Headway Engineering

headwayeng.ca

P: 226 243 6614, Ext. 1

E: Stephen.Brickman@headwayeng.ca

From: Cory Kittel [REDACTED]
Sent: November 8, 2021 1:31 PM
To: Stephen Brickman <stephen.brickman@headwayeng.ca>
Subject: Re: Jananna Municipal Drain Review

Just checking back to make sure you got this. Let me know.

Thanks

On Mon, Oct 25, 2021 at 11:31 AM Cory Kittel [REDACTED] wrote:

Hi Stephen,

Thanks for taking the time to talk about this issue with me. I still find myself missing many of the details. Here are my main questions...

1. What are the problems we are trying to solve?
2. Cost/benefit analysis - is the work and expense worth it?
3. Who is it benefiting? To what benefit?
4. Perhaps there are simple solutions that are being overlooked. At one point a year or two ago John Kuntzee hired excavators at our creek trying to solve flow issues - big expenses that made no difference. The problem was sticks. A build up occurred at our bridge that just needed some TLC. Sometimes people miss the obvious things right in front of them.

Cory Kittel

[REDACTED]

Exhibit “O” to the Affidavit of Cory Kittel

Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

September 15, 2022

Dear Sir/Madam,

**Re: Public Information Meeting
Jananna Municipal Drain
Township of Wilmot
Our Reference No. WLMT-002**

We have completed additional work on this municipal drain and would like to review our findings with everyone concerned.

This review will cover:

1. Type and design of drainage system
2. Estimated Costs
3. Proposed Assessment of costs.

We will be present at the **Wilmot Recreation Complex Wayne Roth Meeting Room located at 1291 Nafziger Road on Thursday September 29, 2022, at 2:00pm.**


The draft design drawings, assessment schedules and other presentation materials will be available through our website following the meeting. Please use the following instructions for accessing the presentation materials.

1. Visit www.headwayeng.ca
2. Select '**Public Engagements**' from the upper right corner.
3. Find '**Jananna Municipal Drain**' and select '**Read More**'.
4. You will be prompted for a password. The Password is: **WLMT-002**

Please plan to attend since this meeting is being held to review this municipal drainage project and answer any questions concerning the proposed work before preparing the final report.

If you have any questions beforehand, please telephone (226) 243-6614.

Yours truly,


Adam Hall
Project Coordinator
HEADWAY ENGINEERING

AH/

Bryan Bishop, C.E.T.
Manager of Engineering
Township of Wilmot
60 Snyder's Road West
Baden, Ontario N3A 1A1
bryan.bishop@wilmot.ca

John Kuntze, P.Eng.
Drainage Superintendent
Township of Wilmot
85 McIntyre Drive
Kitchener, Ontario N2R 1H6
jkuntze@ksmart.ca

Josh Graham
Supervisor, Corridor Management
Region of Waterloo
150 Frederick Street
Kitchener, Ontario N2G 4J3

Lucy Gawron
[REDACTED]
Wellesley, Ontario
N0B 2T0

Cory & Kirby Kittle
[REDACTED]
Wellesley, Ontario
N0B 2T0

Jananna Corp
264 Dearborn Blvd
Waterloo, Ontario
N2J 4Y6

Natalee Ridgeway
[REDACTED]
St. Agatha, Ontario
N0B 1L0

Ronald & Rosemary McCormick
[REDACTED]
St. Agatha, Ontario
N0B 2L0

Ladislaus & Laurretta Bauer
[REDACTED]
Wellesley, ON
N0B 2T0

Oleg & Elana Borissova
[REDACTED]
St. Agatha, ON
N0B 2L0

David & Sherri Homanchuk

[REDACTED]
RR 1 St. Agatha, ON
NOB 2L0

Peter & Barbara Wurtele

[REDACTED]
RR 1 St Agatha, ON
NOB 2L0

Peter & Dagmar Schneider

[REDACTED]
RR 1 St. Agatha, ON
NOB 2L0

Kenneth & Catherine Heintz

[REDACTED]
RR 1 St. Agatha, ON
NOB 2L0

Alexander Johnston

[REDACTED]
RR 1 St. Agatha, ON
NOB 2L0

264171 Holding Inc.
C/O Robert Sanderson

[REDACTED]
Campbelleville, ON
LOP 1B0

Trevor Heywood
Resource Planner
Grand River Conservation Authority
theywood@grandriver.ca



Jananna Municipal Drain

Township of Wilmot – Public
Information Meeting
September 29, 2022



Authority

- Headway was appointed under Section 4(1) of the Drainage Act on July 12, 2021 (about 14 months)



On-site Meeting

An On-site meeting was held on
September 22, 2021



Findings & Recommendations

- Surface water flow paths are causing frequent erosion and crop damage.
- Bamberg Creek is not of sufficient depth to drain nearby low-lying lands.
- Lands north of Gerber Road, and just south of Gerber Road are unlikely to be tiled due to topographical conditions.
- Small parts of the Borissova, Homanchuk and Wurtele properties would lose access by converting Bamberg Creek into a Municipal Drain.
- Portions of the wooded area near Bamberg Creek is a wetland.
- The watershed area of the tile drains is approximately 63 Ha. (155 ac.).

We Recommend:

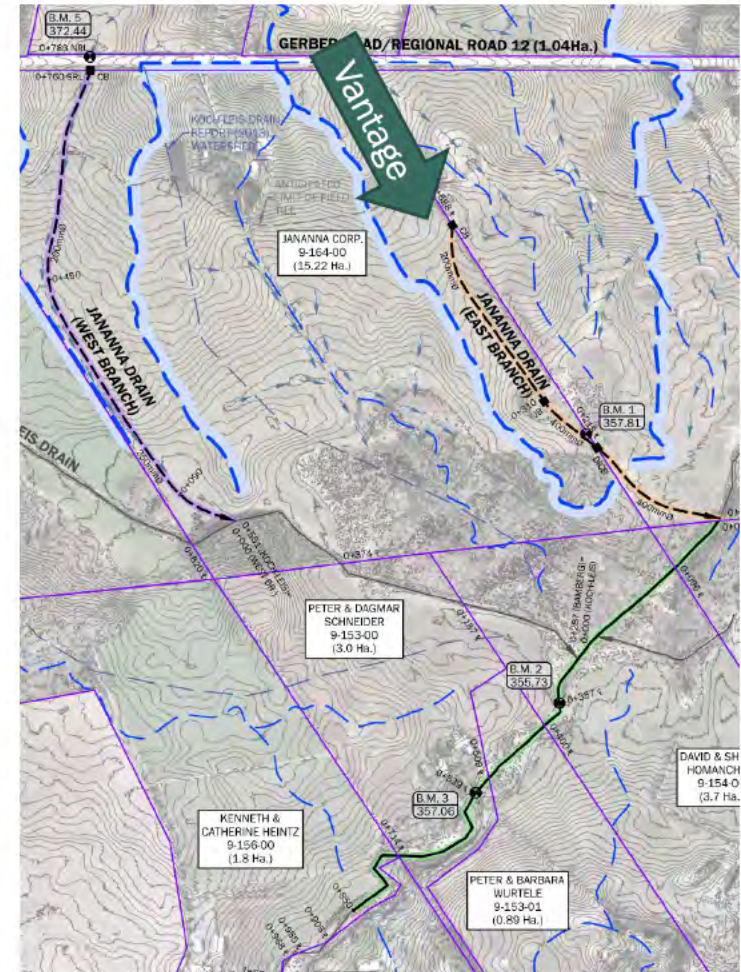
- The construction of a new municipal drainage system designed to today's standards of drainage (25 mm / 24 Hrs).
 - Pipe Systems on the Jananna and Kittle properties (East and West Branches)
- Improvements to Bamberg Creek.



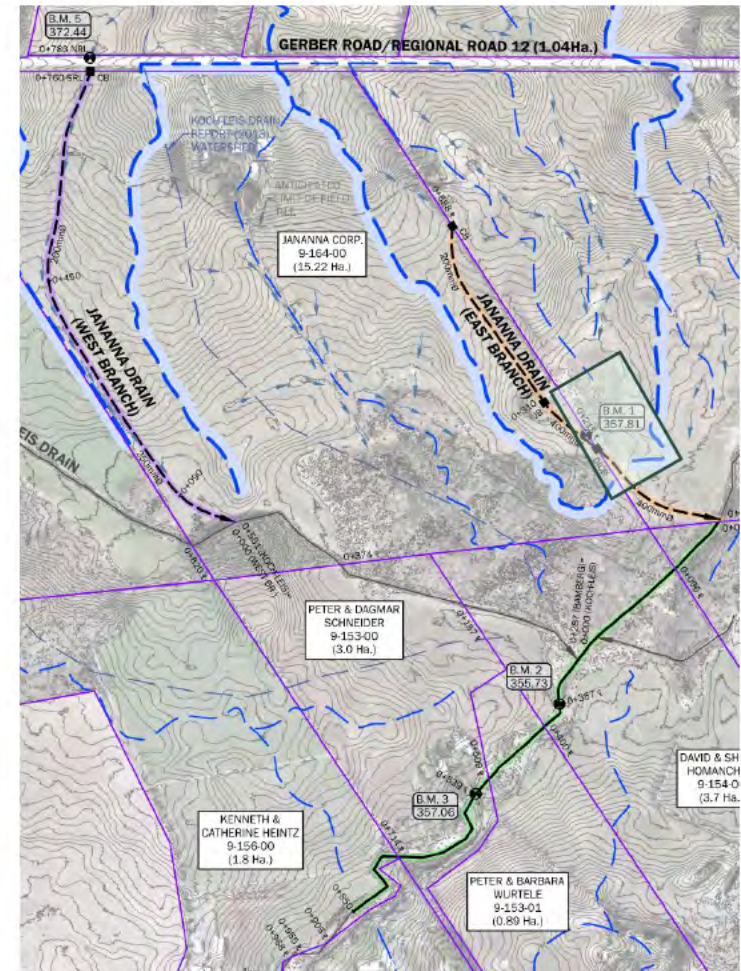


October 12, 2021

Findings – Surface Water



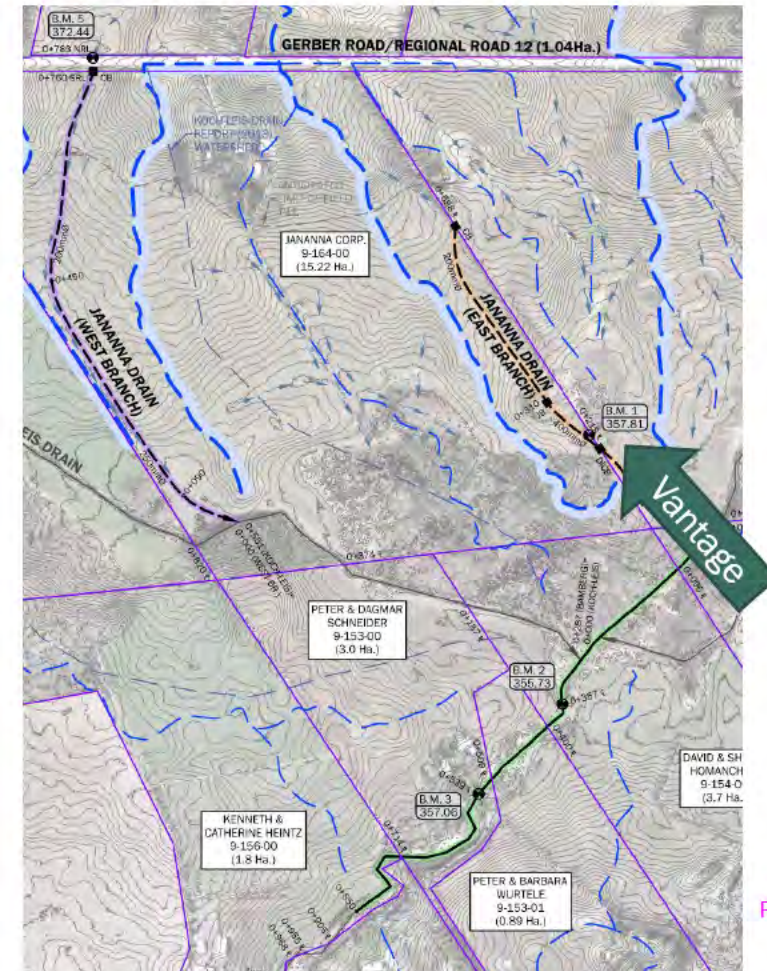
Findings – Surface Water



October 12, 2021



Findings – Surface Water



November 24, 2021

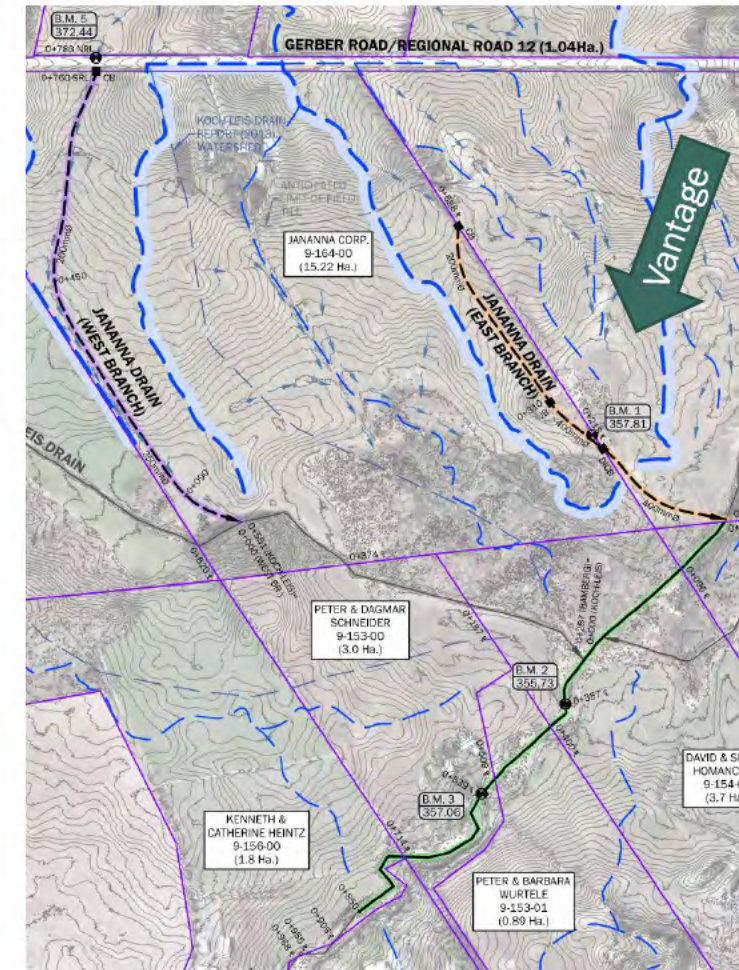


Findings – Topography

250 m



Findings – Surface Water



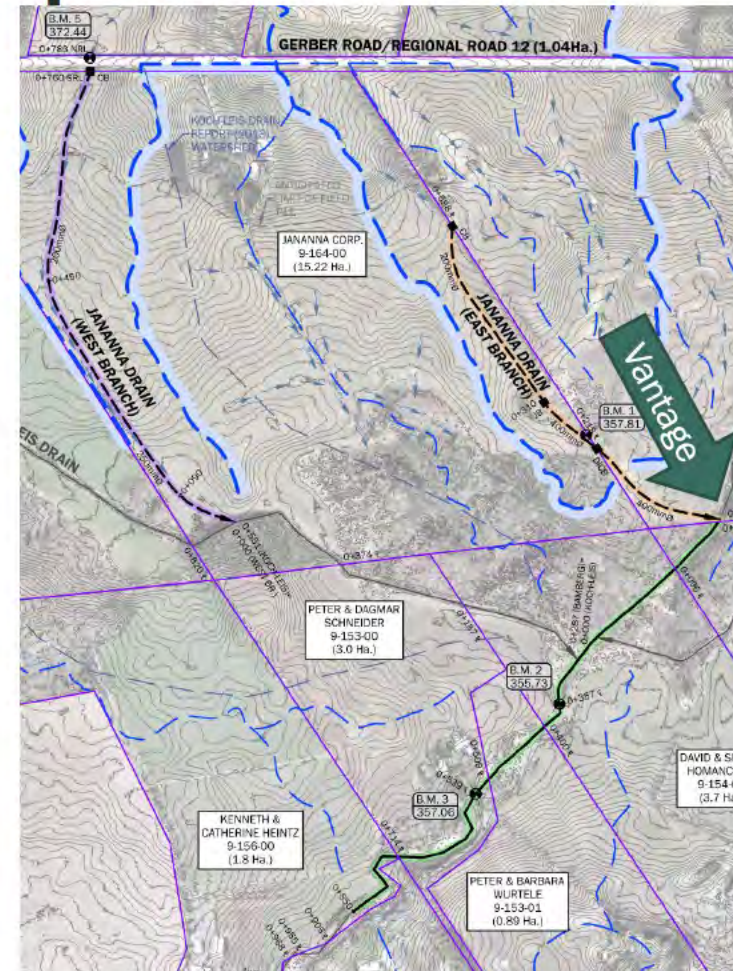
September 23, 2022



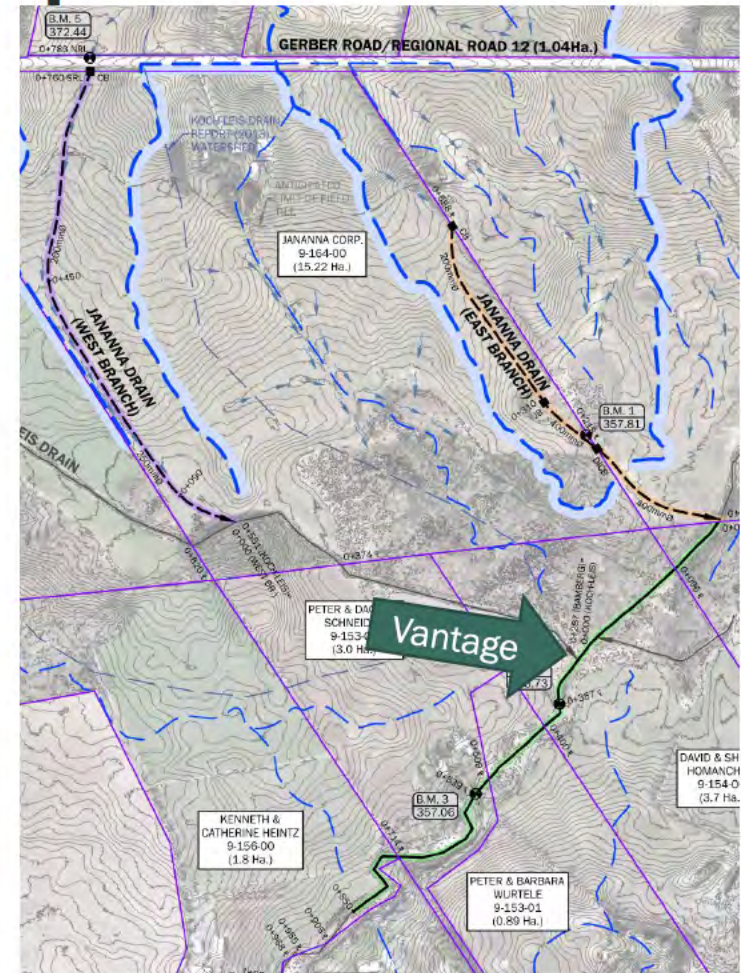


November 24, 2021

Findings – Bamberg Creek Depth



Findings – Bamberg Creek Depth

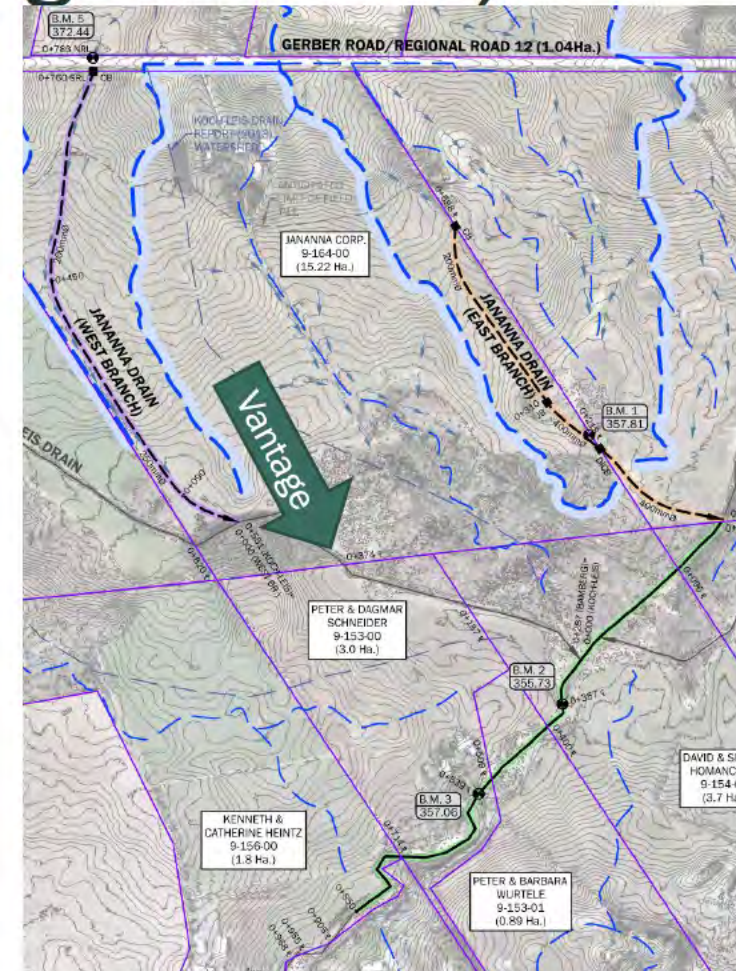


November 24, 2021





Findings – Koch-Leis Drain Outlet (example of good outlet)



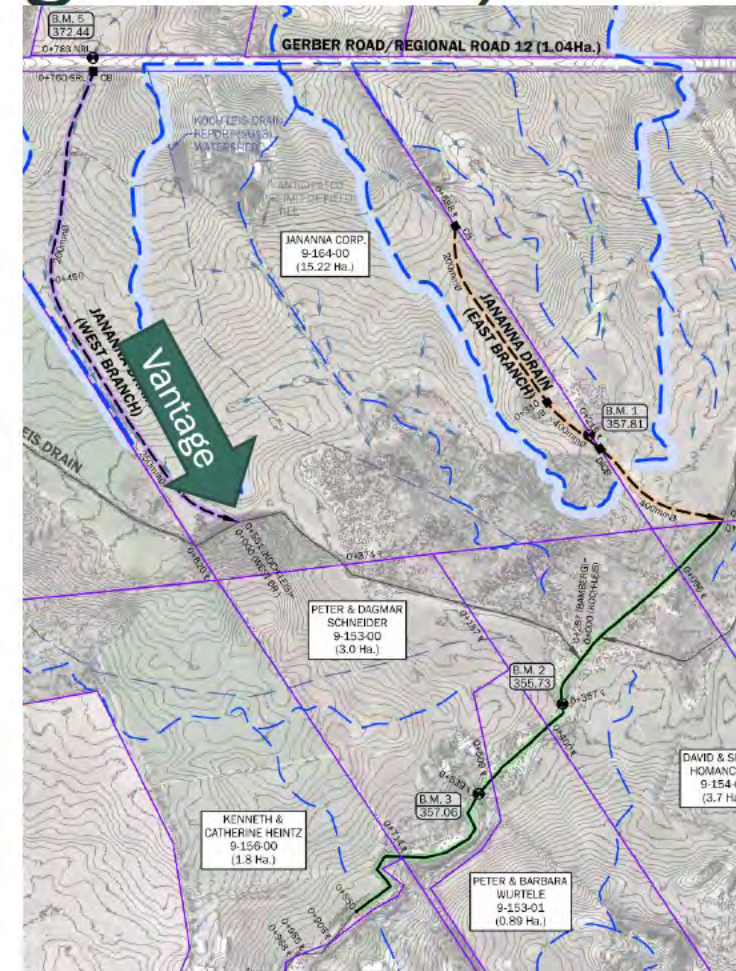
November 24, 2021



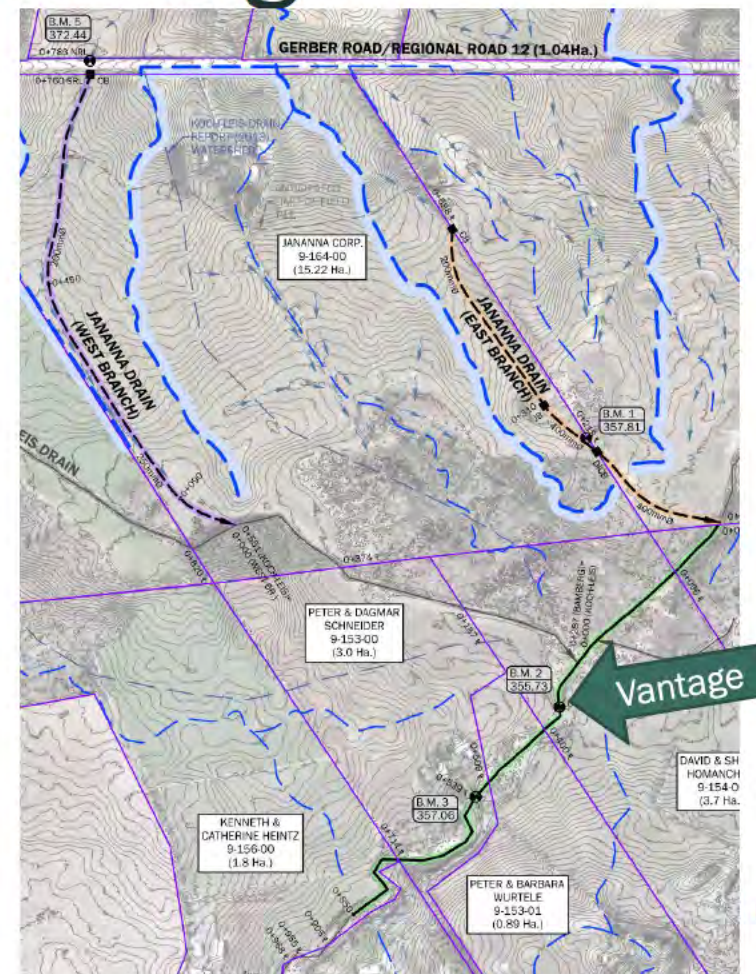


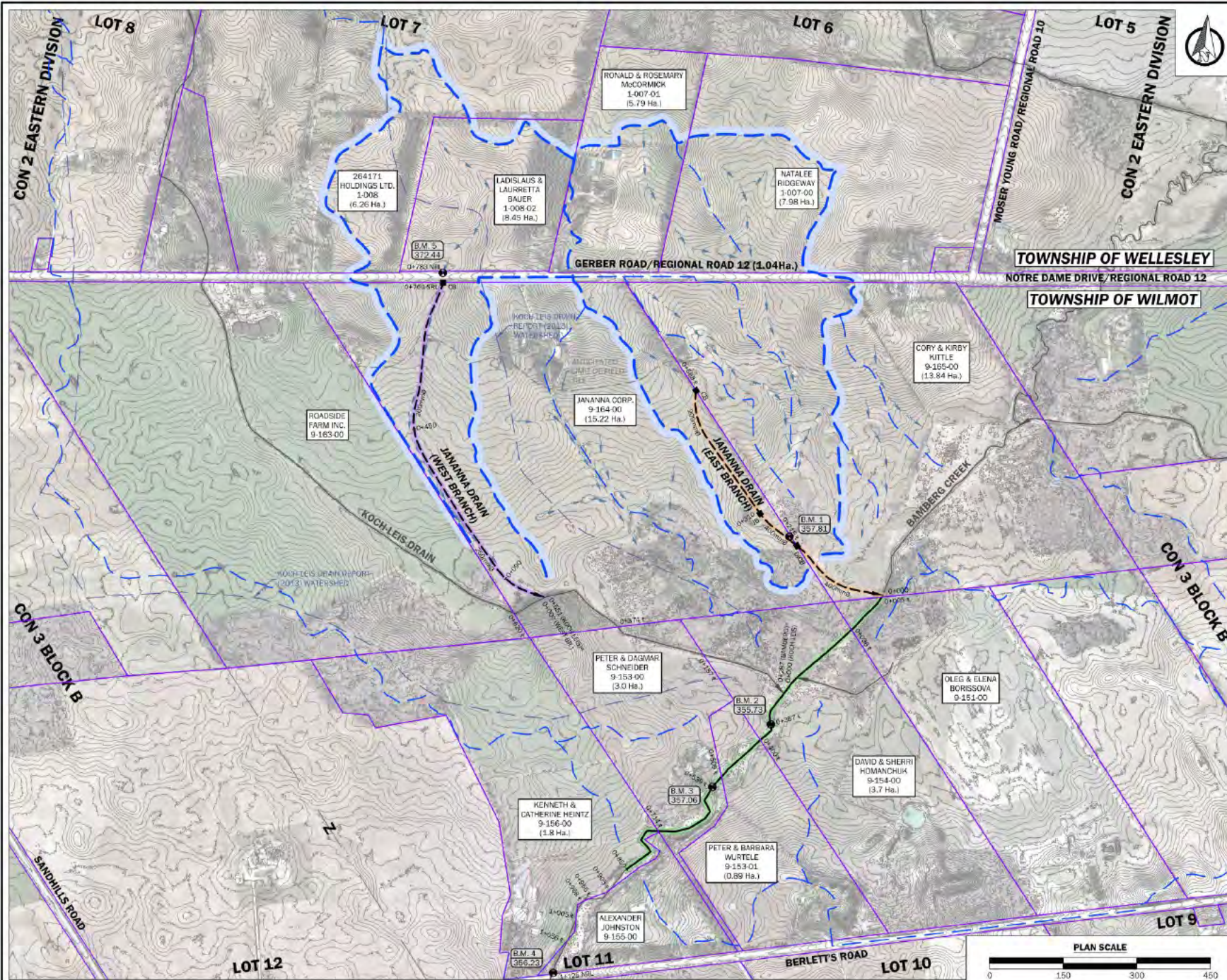
November 24, 2021

Findings – Koch-Leis Drain Outlet (example of good outlet)



Findings – Crossings





NOTES:

1. AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
2. CONTOURS GENERATED USING 2018 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

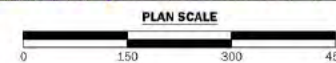
BENCHMARK DESCRIPTIONS

- BENCHMARK No. 1** ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)
- BENCHMARK No. 3** ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)
- BENCHMARK No. 4** ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)
- BENCHMARK No. 5** ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (WEST BR.)

LEGEND

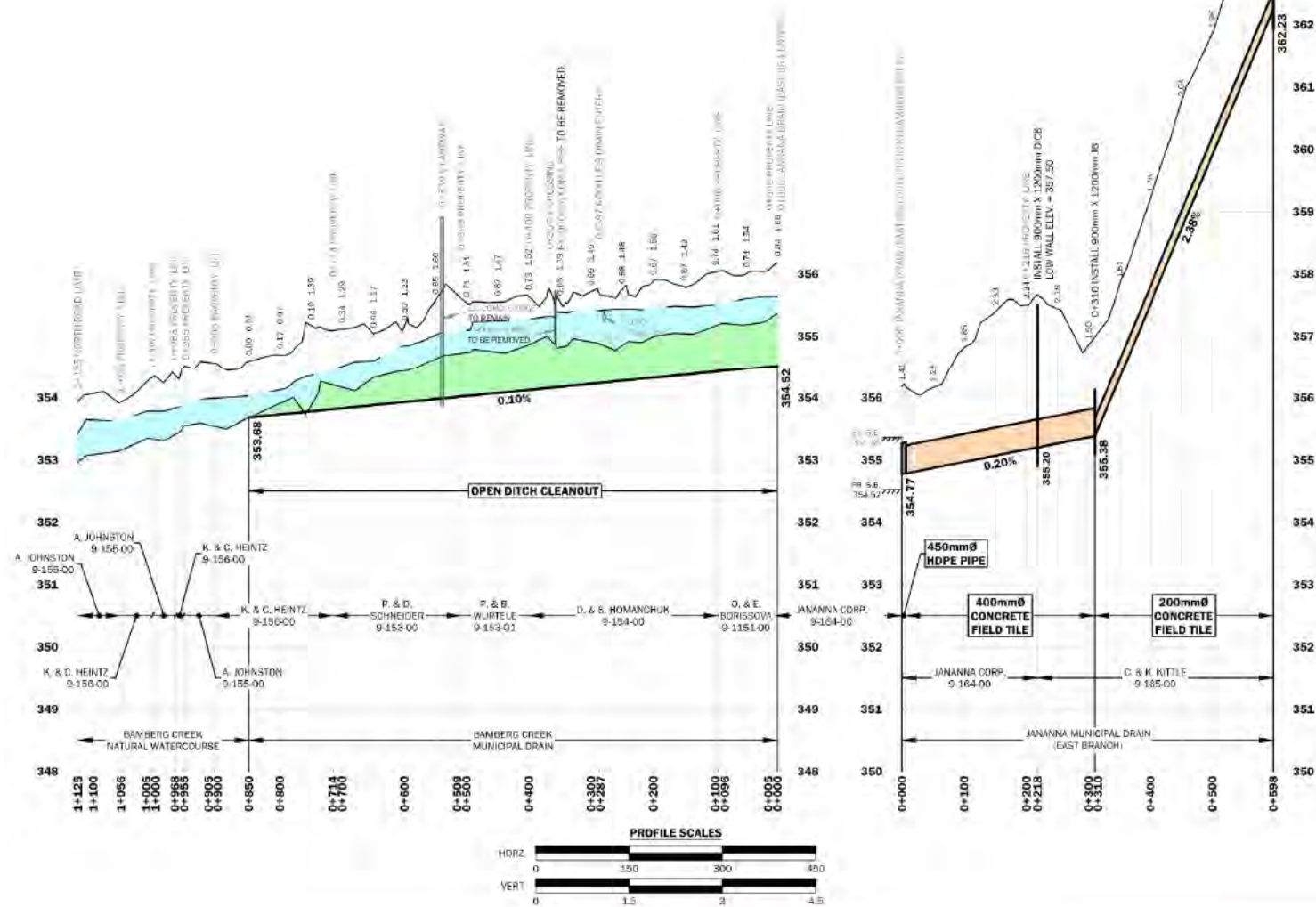
- LOT/CONCESSION LINE
- PROPERTY LINE
- URBAN BOUNDARY
- MAJOR WATERSHED BOUNDARY
- MINOR WATERSHED BOUNDARY
- BENCHMARK LOCATION
- BENCHMARK No.
- BENCHMARK ELEVATION
- LANDOWNER NAME(S)
- ASSESSMENT ROLL No. (ABBREVIATED)
- AREA WITHIN WATERSHED
- EXISTING FEATURES:
 - OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
 - CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
 - OVERLAND FLOW PATH
- PROPOSED FEATURES:
 - OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
 - CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

No.	REVISION	DATE (YY-MM-DD)
3	INFORMATION MEETING	22-09-29
2	PETITIONER MEETING	22-09-13
1	ON-SITE MEETING	21-09-22



SCHEDULE OF PIPE MATERIALS

MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1. HIGH DENSITY POLYETHYLENE OUTLET PIPE	450	0+000 - 0+006	6
2. CONCRETE FIELD TILE	400	0+006 - 0+310	304
3. CONCRETE FIELD TILE	200	0+310 - 0+598	288



JANANNA MUNICIPAL DRAIN

Jananna Drain (East Branch) Profile

BENCHMARK DESCRIPTIONS

- BENCHMARK No. 1** ELEV. = 357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** ELEV. = 355.73
TOP CENTRE DOWNSTREAM END OF 900mm CONCRETE CULVERT AT STA. 0+350 (BAMBERG)
- BENCHMARK No. 3** ELEV. = 357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)
- BENCHMARK No. 4** ELEV. = 356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)
- BENCHMARK No. 5** ELEV. = 372.44
TOP CENTRE UPSTREAM END OF 950mm H.D.P.E. SURFACE CULVERT AT STA. 0+780 (?)

NO.	REVISION	DATE
3	INFORMATION MEETING	22-09-20
2	PETITIONER MEETING	22-09-13
1	ON-SITE MEETING	23-09-22
1	REVISION	DATE



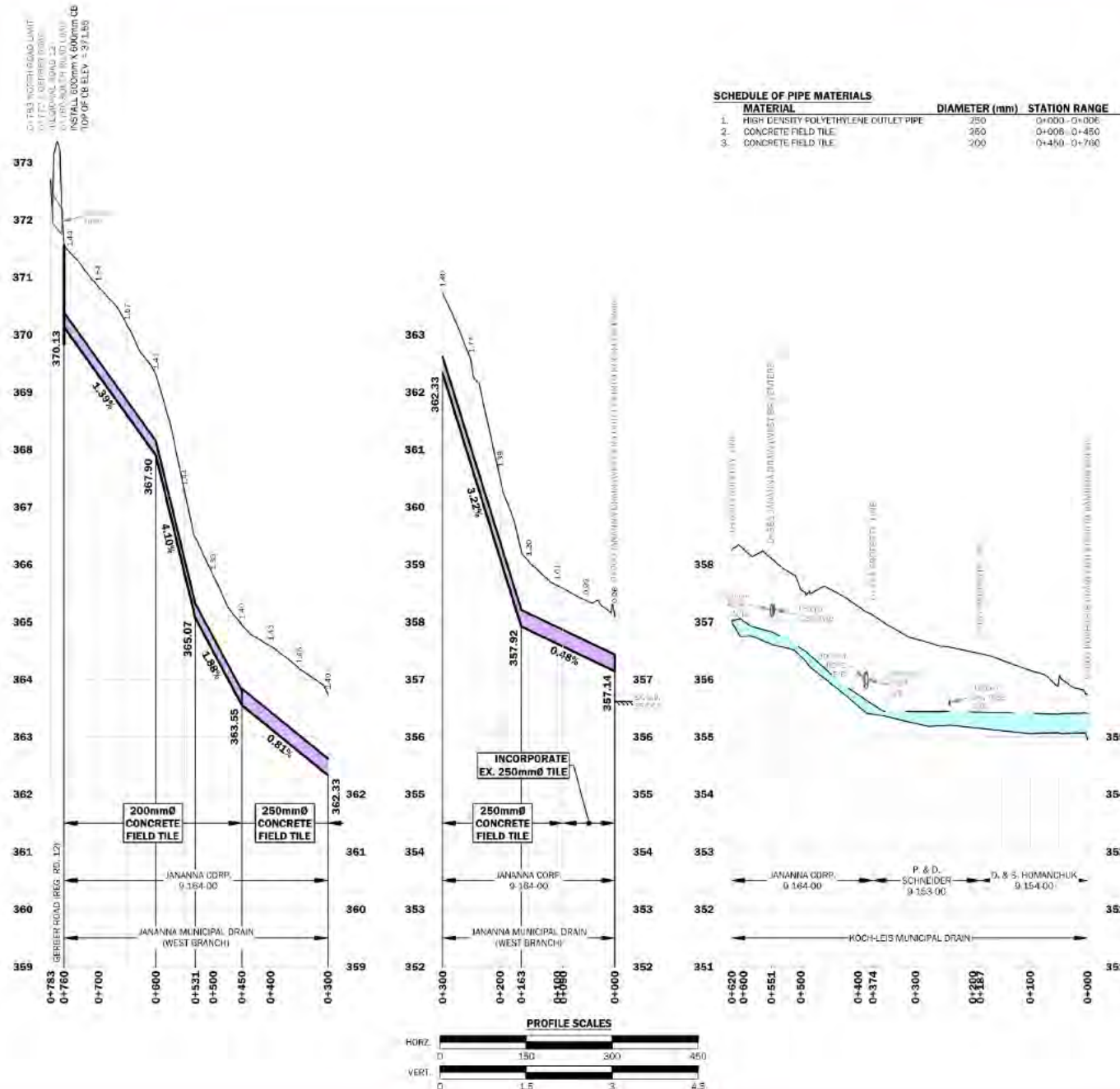
WARD 2

**JANANNA
MUNICIPAL DRAIN**

Jananna Drain
(West Branch) Profile

BENCHMARK DESCRIPTIONS

- BENCHMARK No. 1** ELEV.=367.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** ELEV.=366.73
TOP CENTRE DOWNSTREAM END OF 800mm Ø CONCRETE CULVERT AT STA. 0+358 (BAMBERG)
- BENCHMARK No. 3** ELEV.=367.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)
- BENCHMARK No. 4** ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)
- BENCHMARK No. 5** ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mm Ø H.D.P.E. SURFACE CULVERT AT STA. 0+780 (2)



3	INFORMATION MEETING	22-09-25
2	PETITIONER MEETING	22-09-13
1	ON-SITE MEETING	23-09-22
Rev	REVISION	DATE

WARD 2

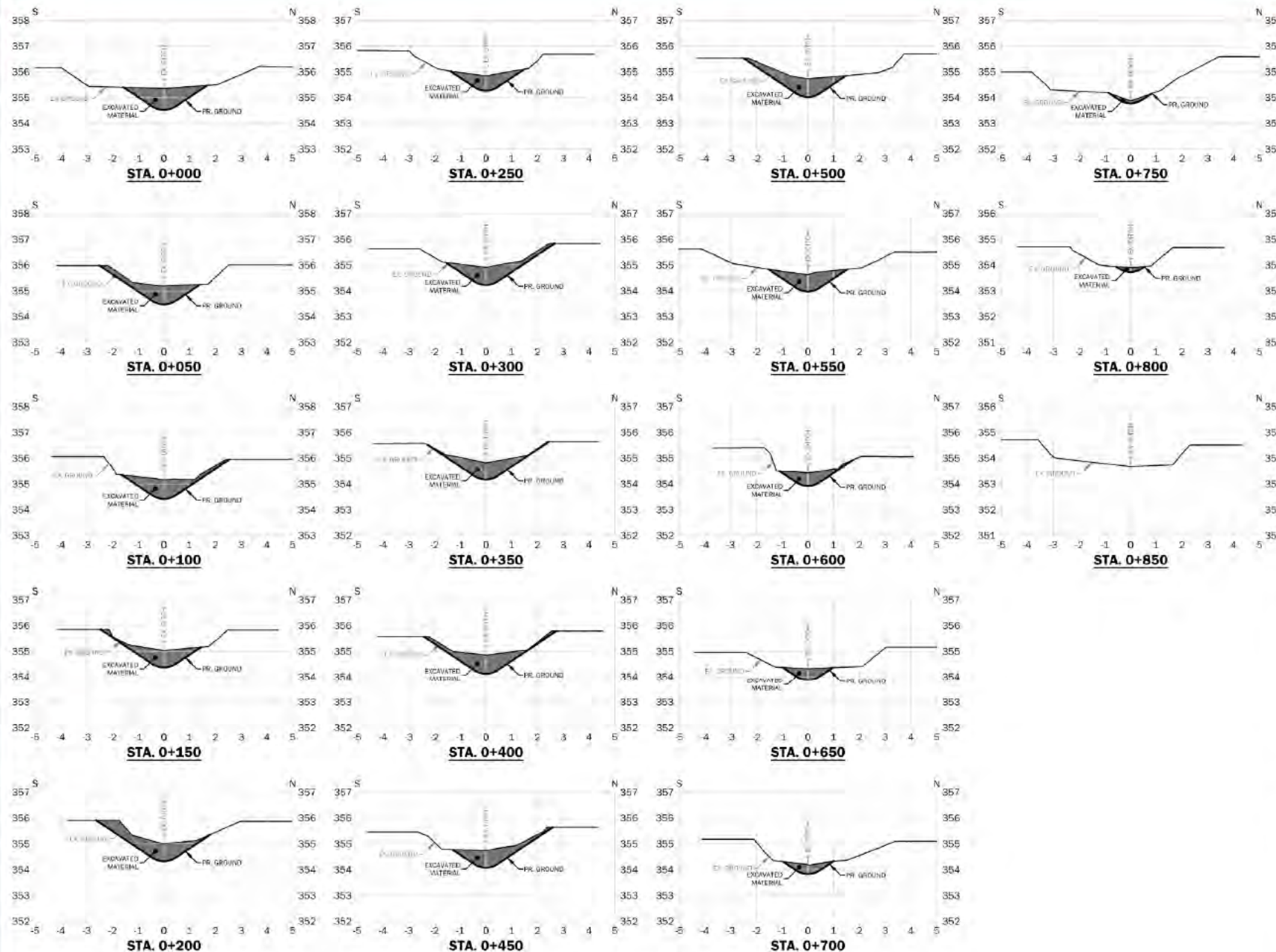
**JANANNA
MUNICIPAL DRAIN**

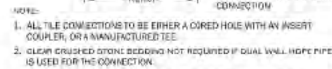
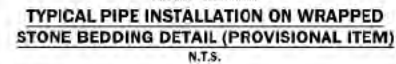
Bamburg Creek Sections

BENCHMARK DESCRIPTIONS

- BENCHMARK No. 1** ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBURG)
- BENCHMARK No. 3** ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBURG)
- BENCHMARK No. 4** ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBURG)
- BENCHMARK No. 5** ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (7)

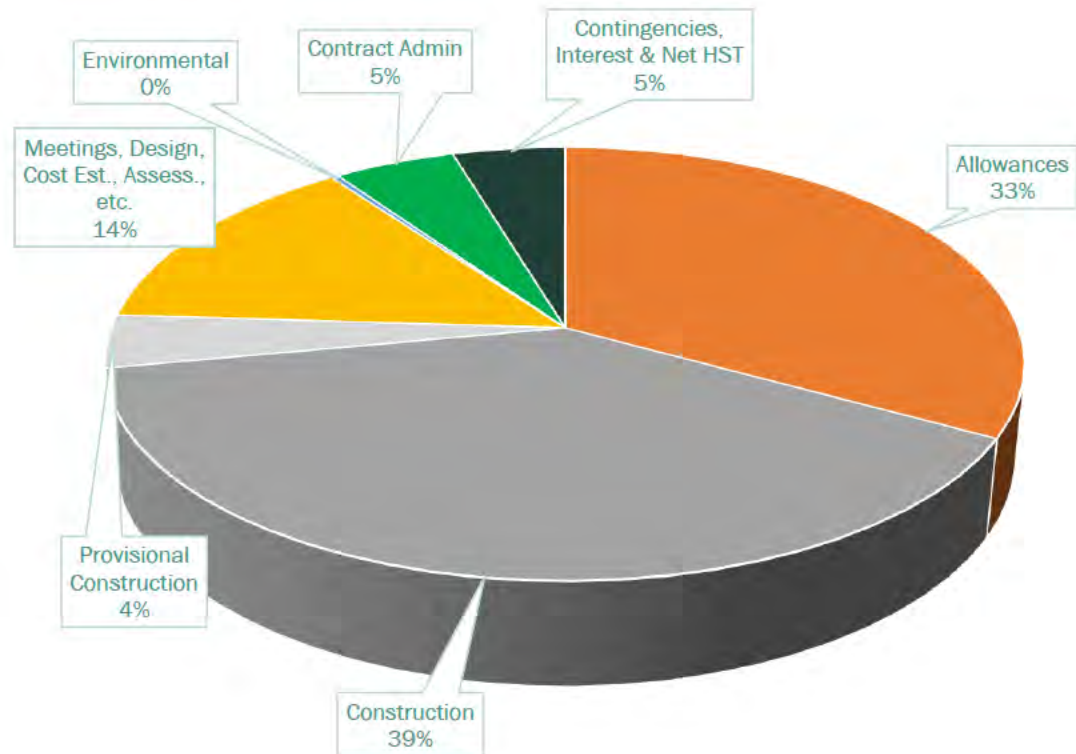
No.	REVISION	DATE (Y/M/D)
3	INFORMATION MEETING	22-09-29
2	PETITIONER MEETING	22-09-13
1	ON SITE MEETING	21-09-22





Page 416 of 1106

Estimated Project Costs



Allowances



Construction Costs (including Contingencies)



Meetings/Correspondence, Design Review, Cost Estimates, Reporting, etc.



Environmental Consultations



Contract Documents, Administration, Supervision & Inspection



Interest & NET HST



Total Estimated Costs: \$409,000

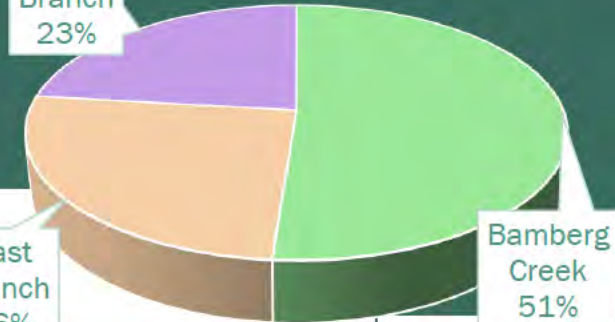


Assessment of Costs

West
Branch
23%

East
Branch
26%

Bamberg
Creek
51%



Schedule of Assessment for Construction Jananna Municipal Drain 2022

Jananna Municipal Drain 2022	Property Details				Assessment Summary				For Information		
	Part Lot	Concession	Landowner	Roll Number	Bamberg Creek Drain	East Branch	West Branch	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
	Township of Wilmot										
	9	3 Block B	Oleg & Elena Borissova	9-151	\$ 12,497.00	\$ -	\$ -	\$ 12,497.00	\$ 4,166.00	\$ 3,040.00	\$ 5,291.00
	9	3 Block B	Cory & Kirby Kittle	9-165	\$ 39,307.00	\$ 26,756.00	\$ -	\$ 66,063.00	\$ 22,021.00	\$ 7,580.00	\$ 36,462.00
	10	3 Block B	Peter & Dagmar Schneider	9-153	\$ 12,054.00	\$ -	\$ -	\$ 12,054.00	\$ 4,018.00	\$ 4,030.00	\$ 4,006.00
	10	3 Block B	Peter & Barbara Wurtele	9-153-01	\$ 44,642.00	\$ -	\$ -	\$ 44,642.00	\$ 14,881.00	\$ 37,110.00	\$ (7,349.00)
	10	3 Block B	David & Sherri Homanchuk	9-154	\$ 64,186.00	\$ -	\$ -	\$ 64,186.00	\$ 21,395.00	\$ 46,210.00	\$ (3,419.00)
	10	3 Block B	Jananna Corp.	9-164	\$ 16,242.00	\$ 61,299.00	\$ 57,500.00	\$ 135,041.00	\$ 45,014.00	\$ 34,300.00	\$ 55,727.00
	11	3 Block B	Alexander Johnston	9-155	\$ 49.00	\$ -	\$ -	\$ 49.00	*	\$ -	\$ 49.00
	11	3 Block B	Kenneth & Catherine Heintz	9-156	\$ 5,718.00	\$ -	\$ -	\$ 5,718.00	\$ 1,906.00	\$ 2,840.00	\$ 972.00
	Total Assessments on Lands				\$ 194,695.00	\$ 88,055.00	\$ 57,500.00	\$ 340,250.00	\$ 113,401.00	\$ 135,110.00	\$ 91,739.00
	Gerber Road Region of Waterloo				\$ 6,327.00	\$ 7,205.00	\$ 20,255.00	\$ 33,787.00			\$ 33,787.00
	Total Assessments on Roads				\$ 6,327.00	\$ 7,205.00	\$ 20,255.00	\$ 33,787.00			\$ 33,787.00
	Total Assessments										
	Main Open Township of Wilmot				\$ 201,022.00	\$ 95,260.00	\$ 77,755.00	\$ 374,037.00	\$ 113,401.00	\$ 135,110.00	\$ 125,526.00
	Township of Wellesley										
	6	2 East	Natalee Ridgeway	1-007-00	\$ 4,855.00	\$ 5,529.00	\$ -	\$ 10,384.00	\$ 3,461.00		\$ 6,923.00
	6	2 East	Ronald & Rosemary McCormick	1-007-01	\$ 3,523.00	\$ 4,011.00	\$ -	\$ 7,534.00	\$ 2,511.00		\$ 5,023.00
	7	2 East	Ladislaus & Laurretta Bauer	1-008-02	\$ -		\$ 9,395.00	\$ 9,395.00	\$ 3,132.00		\$ 6,263.00
	7	2 East	264171 Holdings Ltd.	1-008	\$ -		\$ 7,650.00	\$ 7,650.00	\$ 2,550.00		\$ 5,100.00
	Total Assessments on Lands				\$ 8,378.00	\$ 9,540.00	\$ 17,045.00	\$ 34,963.00	\$ 11,654.00	\$ -	\$ 23,309.00
	Total Assessments										
	Township of Wellesley				\$ 8,378.00	\$ 9,540.00	\$ 17,045.00	\$ 34,963.00	\$ 11,654.00	\$ -	\$ 23,309.00
	Total Assessments										
	Jananna Municipal Drain 2022				\$ 209,400.00	\$ 104,800.00	\$ 94,800.00	\$ 409,000.00	\$ 125,055.00	\$ 135,110.00	\$ 148,835.00



Process

- Appointment of an Engineer – Complete
- Onsite Meeting – Complete
- Survey – Complete
- Drafting – Complete
- Design and Cost Estimating – Complete
- **Public Engagements (Today) – Complete**
- Environmental Consultations – Ongoing
- Prepare final Report
- **Processing the Report – Next Slide**
- Tendering
- Construction
- Recover Costs

Processing the Report



Engineer files the report with the Township



Township schedules Meeting to Consider the Report



Township mails a copy of the report, and a Notice of the Meeting to Consider the Report to everybody affected



Meeting to Consider



Township forwards a copy of the provisional by-law to Landowners, along with a notice of the Court of Revision



Appeals Process

Court of Revision – Assessment Based Appeals

Tribunal and Referee (if necessary)

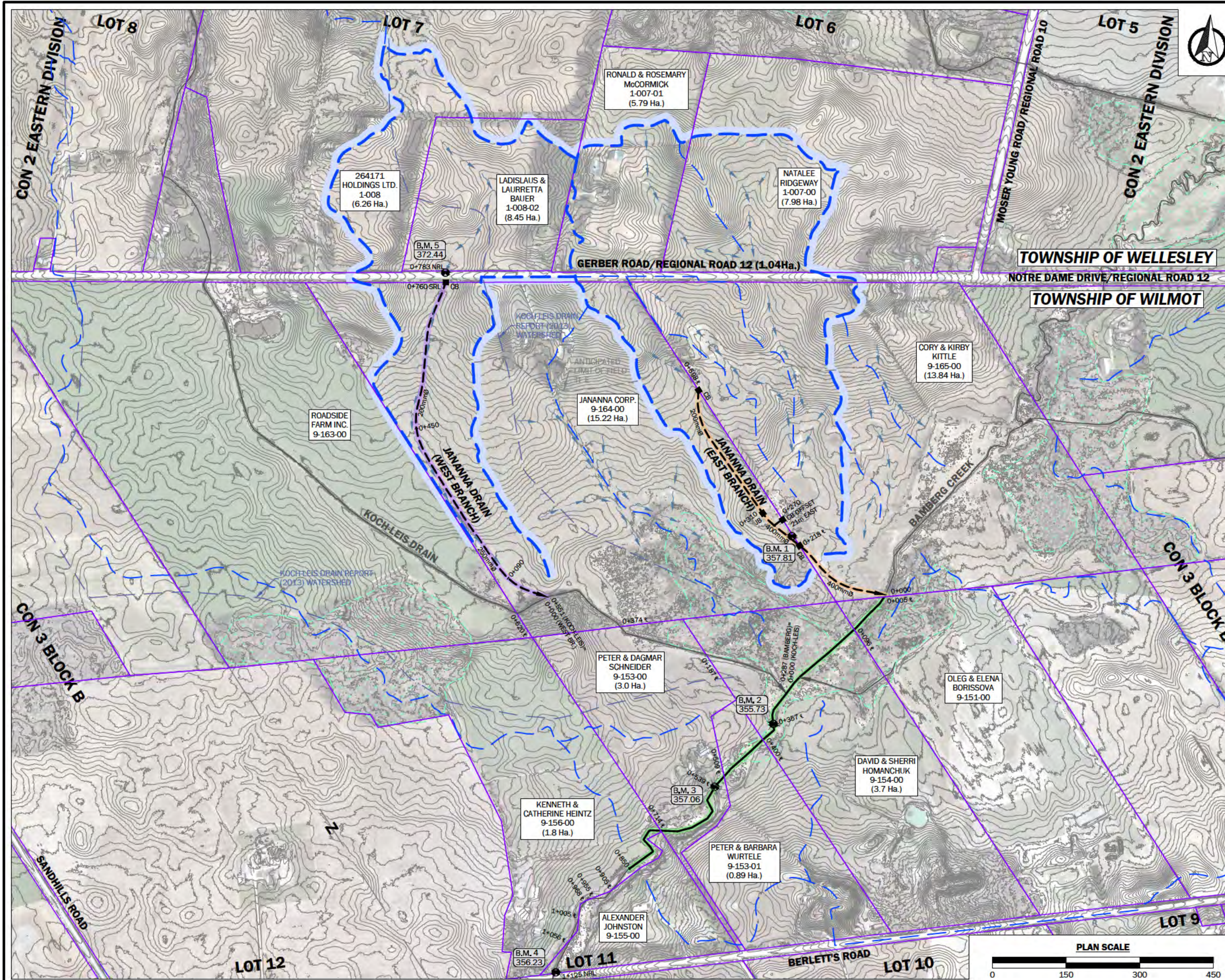


Third Reading of the By-Law



Process

- Appointment of an Engineer – Complete
- Onsite Meeting – Complete
- Survey – Complete
- Drafting – Complete
- Design and Cost Estimating – Complete
- **Public Engagements (Today) – Complete**
- Environmental Consultations – Ongoing
- Prepare final Report
- **Processing the Report – Next Slide**
- Tendering
- Construction
- Recover Costs



WARD 2

JANANNA MUNICIPAL DRAIN

Watershed Plan

NOTES:
1. AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
2. CONTOURS GENERATED USING 2018 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

BENCHMARK DESCRIPTIONS

- BENCHMARK No. 1** ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)
- BENCHMARK No. 3** ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)
- BENCHMARK No. 4** ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)
- BENCHMARK No. 5** ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (WEST BR.)

LEGEND

LOT/CONCESSION LINE
PROPERTY LINE
URBAN BOUNDARY
MAJOR WATERSHED BOUNDARY
MINOR WATERSHED BOUNDARY
WETLAND LIMIT

BENCHMARK LOCATION
B.M. 1
123.45
BENCHMARK No.
BENCHMARK ELEVATION

JOHN & JANE SMITH
12-345
12.3 Ha.
LANDOWNER NAME(S)
ASSESSMENT ROLL No. (ABBREVIATED)
AREA WITHIN WATERSHED

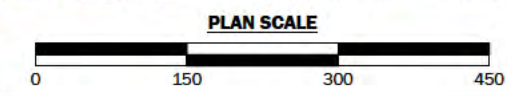
EXISTING FEATURES:

— DRAIN NAME — OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
— DRAIN NAME — CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
— OVERLAND FLOW PATH

PROPOSED FEATURES:

— DRAIN NAME — OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
— DRAIN NAME — CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)



WARD 2

**JANANNA
MUNICIPAL DRAIN**

Jananna Drain
(East Branch) Profile

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 **ELEV.=357.81**
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)

BENCHMARK No. 2 **ELEV.=355.73**
TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)

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BENCHMARK No. 4 **ELEV.=356.23**
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)

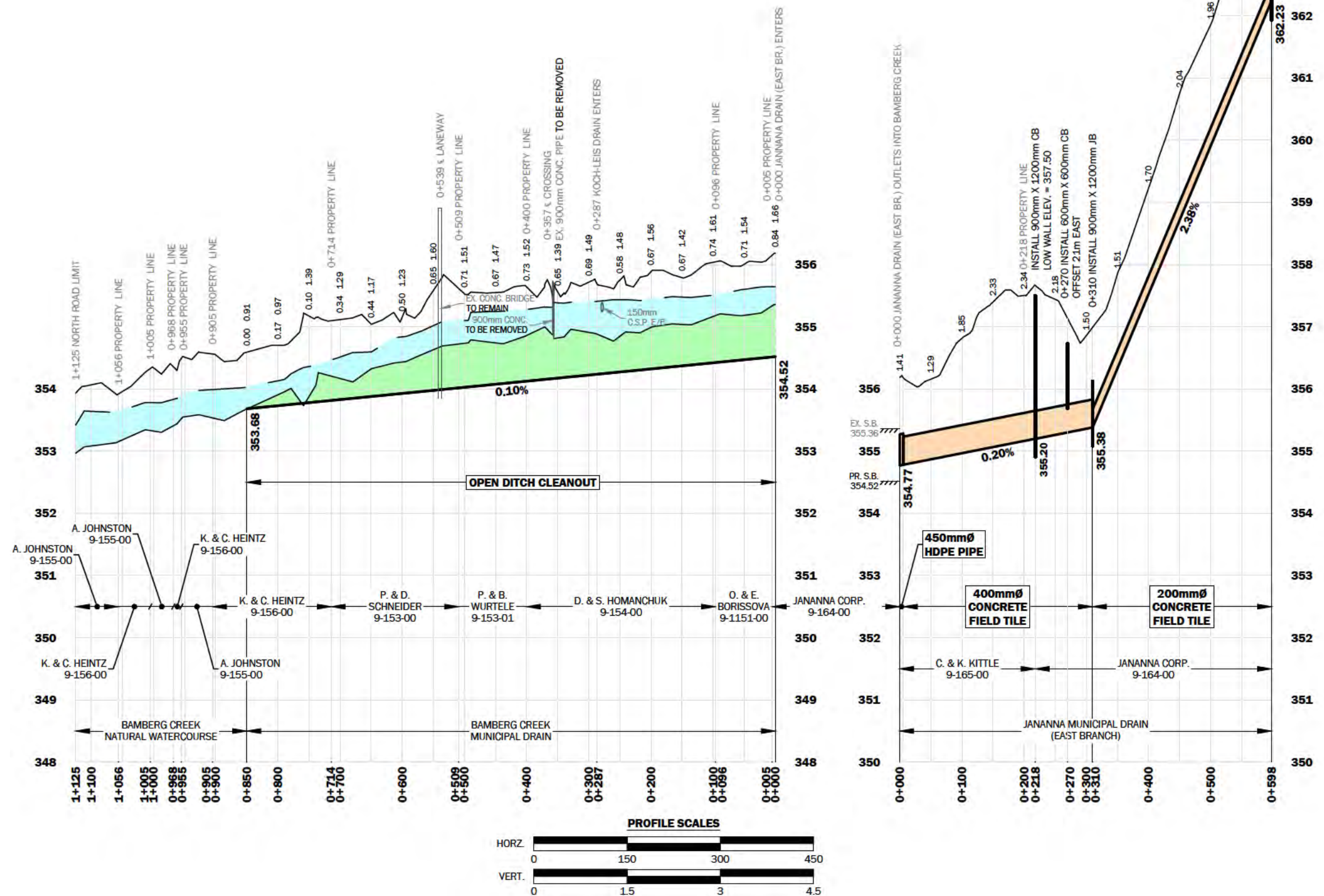
BENCHMARK No. 5 **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (?)

No.	REVISION	DATE (YY-MM-DD)
2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22

DRAWN BY: A.H.	DESIGNED BY: A.H.	CHECKED BY: S.B.
DATE: 2022-09-29	REFERENCE No. WLMT-002	DRAWING No. 2 OF 5

SCHEDULE OF PIPE MATERIALS

	MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1.	HIGH DENSITY POLYETHYLENE OUTLET PIPE	450	0+000 - 0+006	6
2.	CONCRETE FIELD TILE	400	0+006 - 0+310	304
3.	CONCRETE FIELD TILE	200	0+310 - 0+598	288



WARD 2

**JANANNA
MUNICIPAL DRAIN**

Jananna Drain
(West Branch) Profile

BENCHMARK DESCRIPTIONS

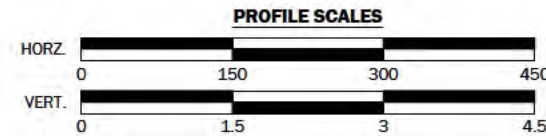
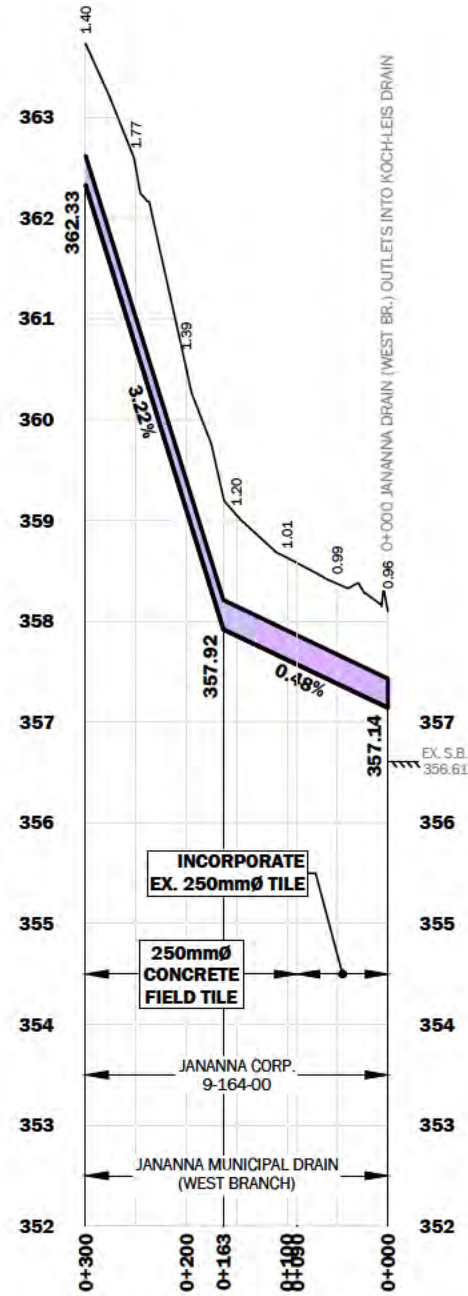
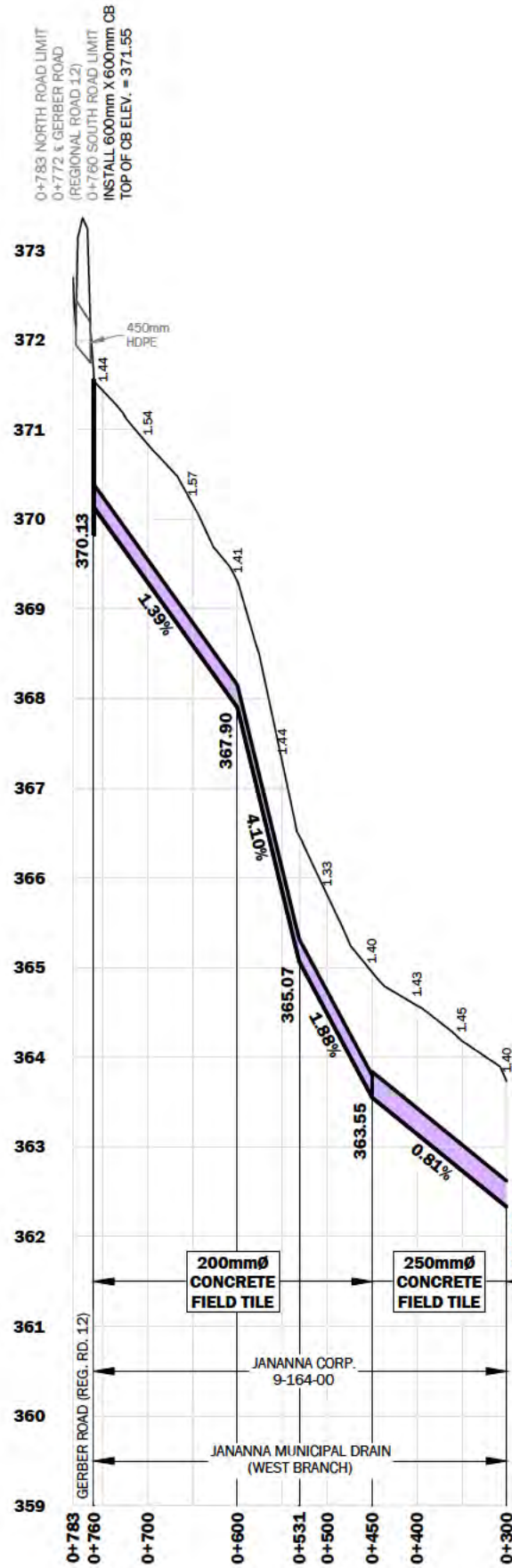
BENCHMARK No. 1 **ELEV.=357.81**
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234
(JANANNA)

BENCHMARK No. 2 **ELEV.=355.73**
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TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537
(BAMBERG)

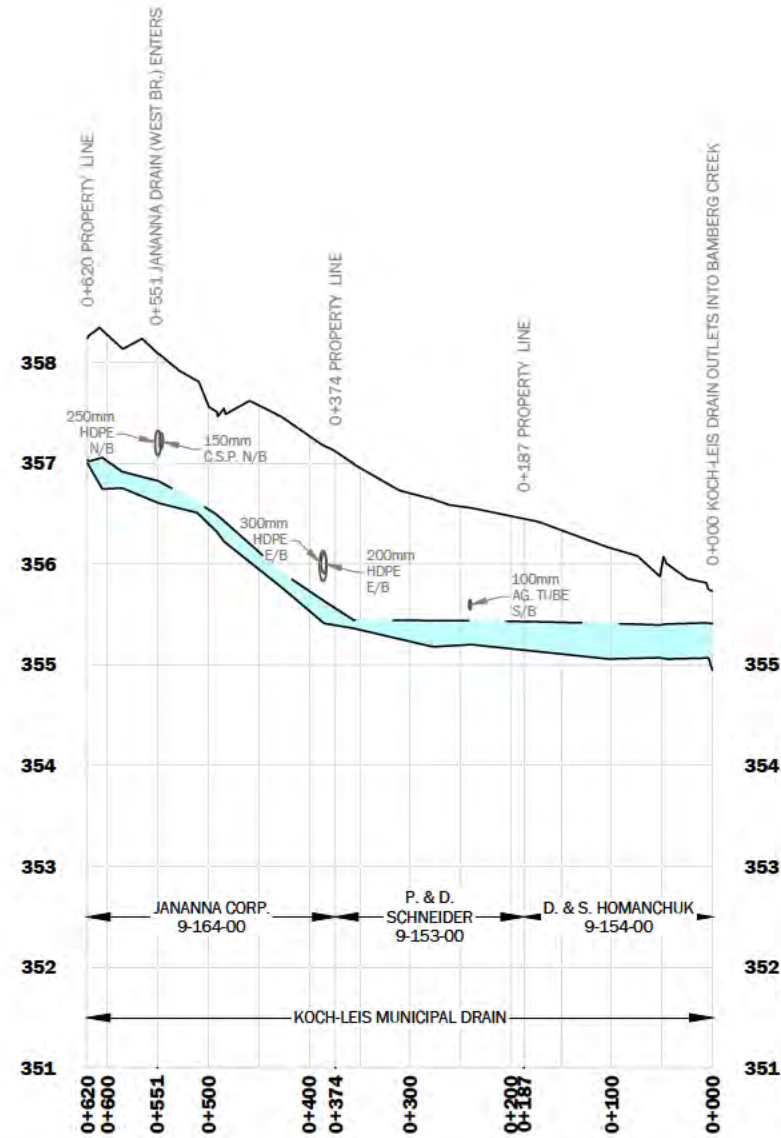
BENCHMARK No. 4 **ELEV.=356.23**
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT
STA. 1+125 (BAMBERG)

BENCHMARK No. 5 **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE
CULVERT AT STA. 0+780 (?)



SCHEDULE OF PIPE MATERIALS

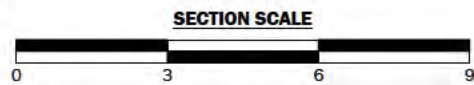
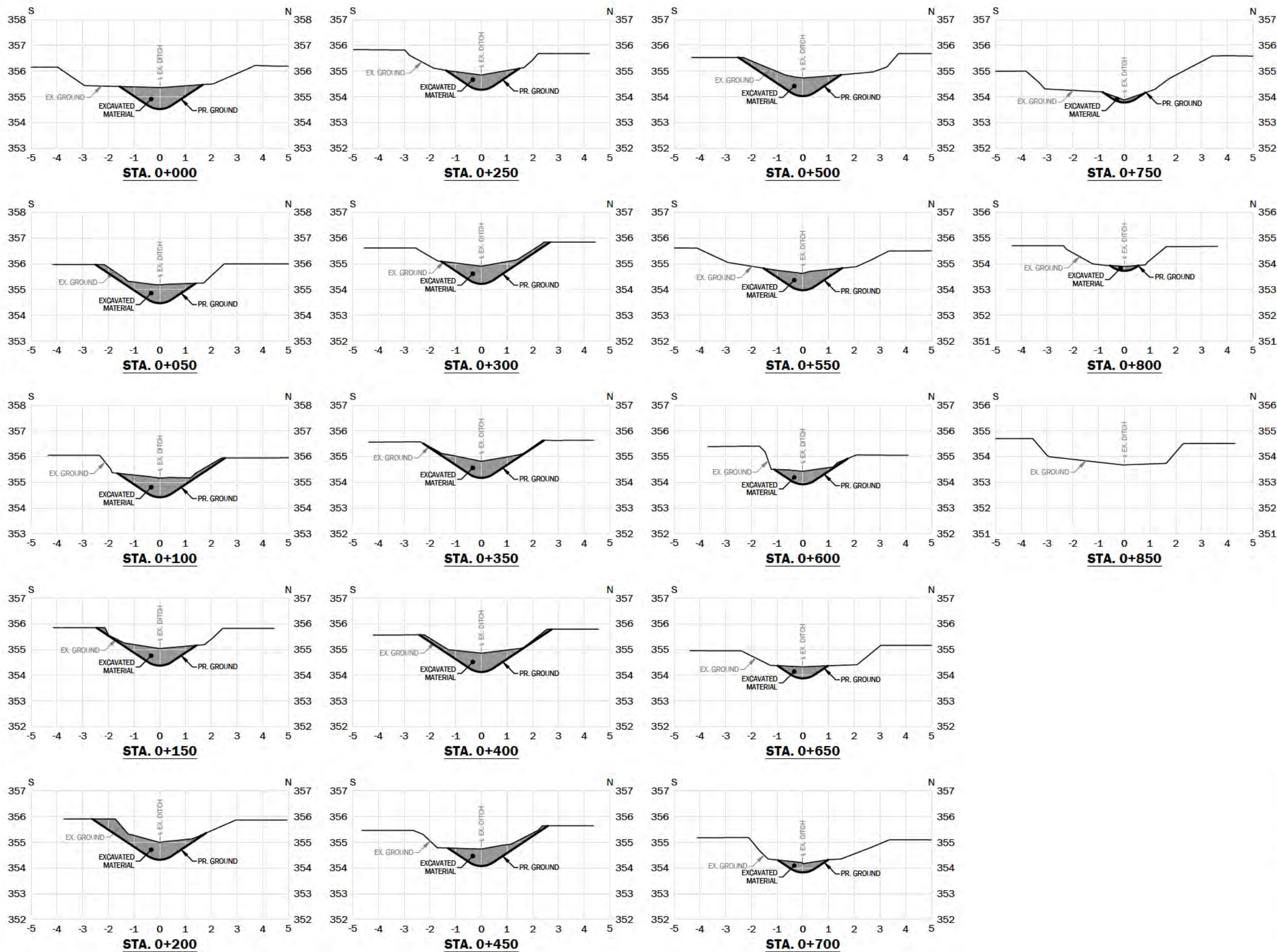
MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1. HIGH DENSITY POLYETHYLENE OUTLET PIPE	250	0+000 - 0+006	6
2. CONCRETE FIELD TILE	250	0+006 - 0+450	444
3. CONCRETE FIELD TILE	200	0+450 - 0+760	310



No.	REVISION	DATE (YY-MM-DD)
2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22



DRAWN BY: A.H.	DESIGNED BY: A.H.	CHECKED BY: S.B.
DATE: 2022-09-29	REFERENCE No. WLMT-002	DRAWING No. 3 OF 5



BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 **ELEV.=357.81**
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2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)



WARD 2

**JANANNA
MUNICIPAL DRAIN**

Details

BENCHMARK DESCRIPTIONS

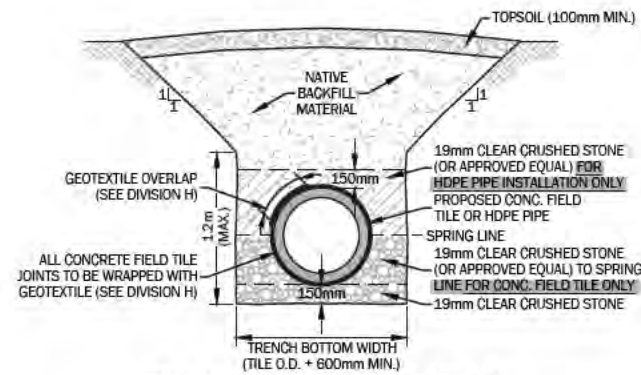
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AT STA. 0+358 (BAMBERG)

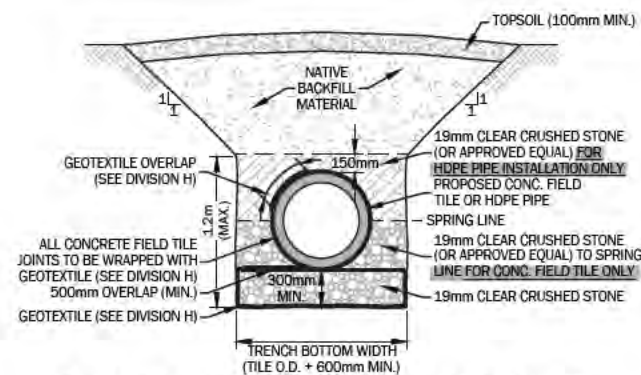
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(BAMBERG)

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TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT
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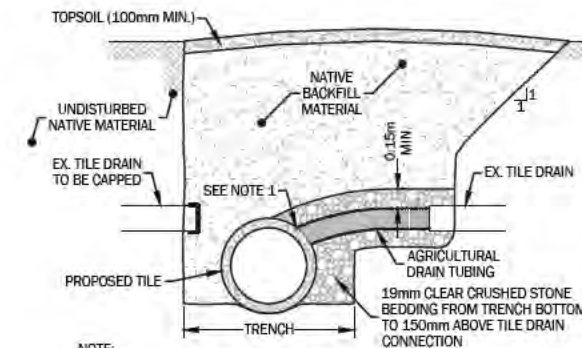
BENCHMARK No. 5 **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE
CULVERT AT STA. 0+780 (?)



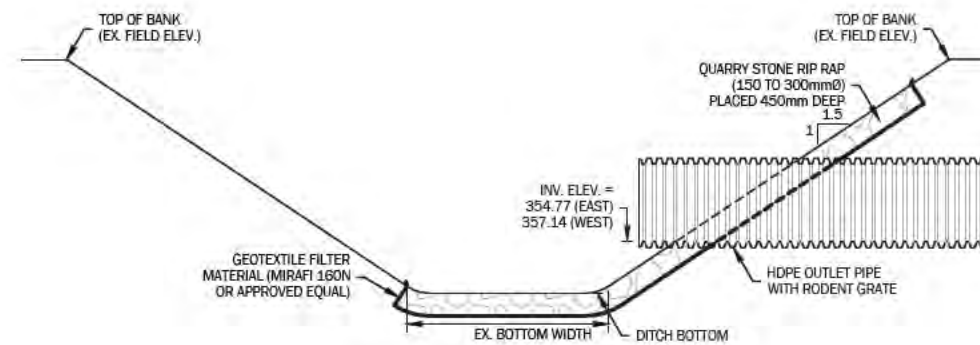
**TYPICAL PIPE INSTALLATION
ON STONE BEDDING DETAIL**
N.T.S.



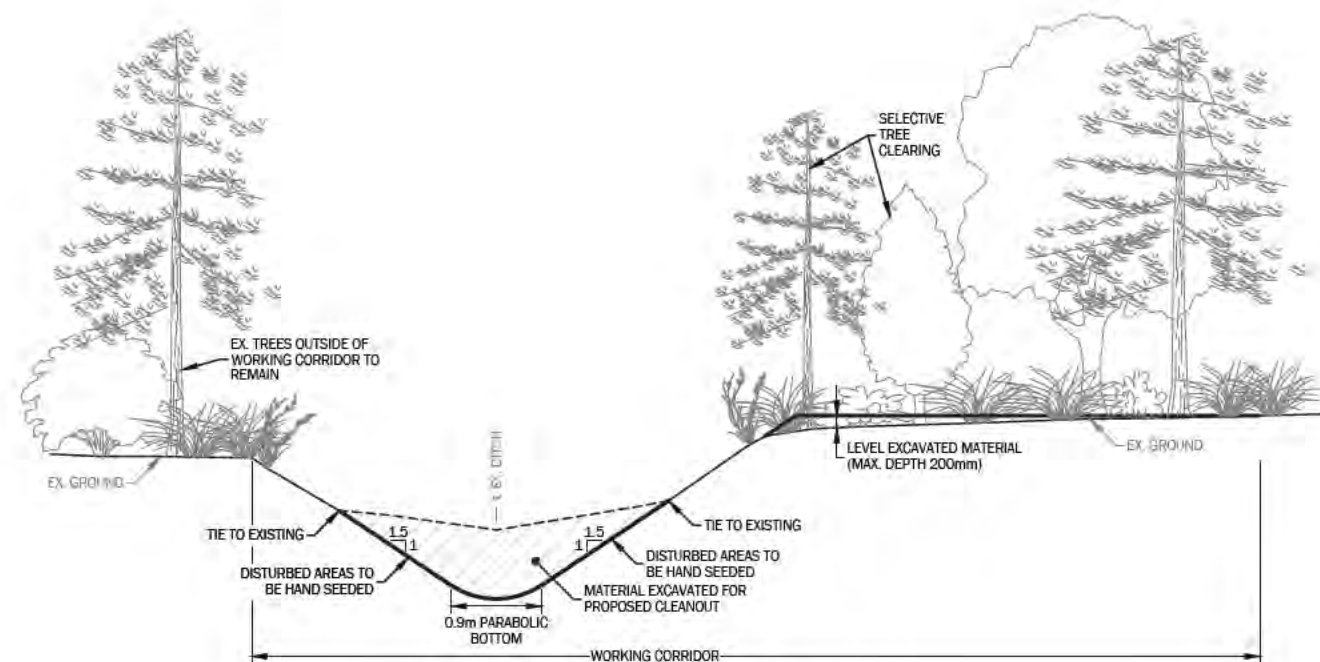
**TYPICAL PIPE INSTALLATION ON WRAPPED
STONE BEDDING DETAIL (PROVISIONAL ITEM)**
N.T.S.



TYPICAL TILE CONNECTION DETAIL
N.T.S.



TYPICAL OUTLET DETAIL
N.T.S.



TYPICAL OPEN DITCH CLEANOUT DETAIL
N.T.S.

2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)



DRAWN BY: A.H.	DESIGNED BY: A.H.	CHECKED BY: S.B.
DATE: 2022-09-29	REFERENCE No. WLMT-002	DRAWING No. 5 OF 5

Schedule of Assessment for Construction Jananna Municipal Drain 2022

Jananna Municipal Drain 2022	Property Details				Assessment Summary				For Information		
	Part Lot	Concession	Landowner	Roll Number	Bamberg Creek Drain	East Branch	West Branch	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
	Township of Wilmot										
	9	3 Block B	Oleg & Elena Borissova	9-151	\$ 12,497.00	\$ -	\$ -	\$ 12,497.00	\$ 4,166.00	\$ 3,040.00	\$ 5,291.00
	9	3 Block B	Cory & Kirby Kittle	9-165	\$ 39,307.00	\$ 26,756.00	\$ -	\$ 66,063.00	\$ 22,021.00	\$ 7,580.00	\$ 36,462.00
	10	3 Block B	Peter & Dagmar Schneider	9-153	\$ 12,054.00	\$ -	\$ -	\$ 12,054.00	\$ 4,018.00	\$ 4,030.00	\$ 4,006.00
	10	3 Block B	Peter & Barbara Wurtele	9-153-01	\$ 44,642.00	\$ -	\$ -	\$ 44,642.00	\$ 14,881.00	\$ 37,110.00	\$ (7,349.00)
	10	3 Block B	David & Sherri Homanchuk	9-154	\$ 64,186.00	\$ -	\$ -	\$ 64,186.00	\$ 21,395.00	\$ 46,210.00	\$ (3,419.00)
	10	3 Block B	Jananna Corp.	9-164	\$ 16,242.00	\$ 1,299.00	\$ 57,500.00	\$ 135,041.00	\$ 45,014.00	\$ 34,300.00	\$ 55,727.00
	11	3 Block B	Alexander Johnston	9-155	\$ 49.00	\$ -	\$ -	\$ 49.00	*	\$ -	\$ 49.00
	11	3 Block B	Kenneth & Catherine Heintz	9-156	\$ 5,718.00	\$ -	\$ -	\$ 5,718.00	\$ 1,906.00	\$ 2,840.00	\$ 972.00
Total Assessments on Lands					\$ 194,695.00	\$ 8,055.00	\$ 57,500.00	\$ 340,250.00	\$ 113,401.00	\$ 135,110.00	\$ 91,739.00
Gerber Road Region of Waterloo					\$ 6,327.00	\$ 205.00	\$ 20,255.00	\$ 33,787.00			\$ 33,787.00
Total Assessments on Roads					\$ 6,327.00	\$ 205.00	\$ 20,255.00	\$ 33,787.00			\$ 33,787.00
Total Assessments											
Main Open Township of Wilmot					\$ 2,000.00	\$ 95,260.00	\$ 77,755.00	\$ 374,037.00	\$ 113,401.00	\$ 135,110.00	\$ 125,526.00
Township of Wellesley											
6	2 East	Natalee Ridgeway	1-007-00	\$ 4,855.00	\$ 5,529.00	\$ -	\$ 10,384.00	\$ 3,461.00		\$ 6,923.00	
6	2 East	Ronald & Rosemary McCormick	1-007-01	\$ 3,523.00	\$ 4,011.00	\$ -	\$ 7,534.00	\$ 2,511.00		\$ 5,023.00	
7	2 East	Ladislaus & Laurretta Bau	008-02	\$ -		\$ 9,395.00	\$ 9,395.00	\$ 3,132.00		\$ 6,263.00	
7	2 East	264171 Holdings Ltd	1 008	\$ -		\$ 7,650.00	\$ 7,650.00	\$ 2,550.00		\$ 5,100.00	
Total Assessments on Lands					\$ 8,378.00	\$ 9,540.00	\$ 17,045.00	\$ 34,963.00	\$ 11,654.00	\$ -	\$ 23,309.00
Total Assessments											
Township of Wellesley					\$ 8,378.00	\$ 9,540.00	\$ 17,045.00	\$ 34,963.00	\$ 11,654.00	\$ -	\$ 23,309.00
Total Assessments											
Jananna Municipal Drain 2022					\$ 209,400.00	\$ 104,800.00	\$ 94,800.00	\$ 409,000.00	\$ 125,055.00	\$ 135,110.00	\$ 148,835.00



Project: **Jananna Drain**

Reference No. **WLMT-002**

By: a.h.

Date: September 29, 2022

Checked By:

Page: 1 of 2

Subject: ~~Onsite Meeting~~ - **Sign-in Sheet**

Information Meeting

Name	Organization or Property	Phone Number	Email Address
Stephen Brickman	Headway Engineering	226 243 6614	Stephen.brickman@headwayeng.ca
Adam Hall	Headway Engineering	226 243 6614	adam.hall@headwayeng.ca
John Kuntze	Wilmot & Wellesley Drain Super		
Jane Dickmecker			
Wayne Schneider			
Walter Kump			
Cory Kitchel	N/A		
Larry Gamm	one of the owners of Jananna Farm		
Ken & Kathy Heintz	Bambrook Farm		
JUSTIN MILLER	RIDGEWAY ACRES		
CHRIS & KATH TURNER			
Ron McCormick			

Exhibit “**P**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

November 10, 2022

Dear Sir/Madam,

**Re: Public Information Meeting
Koch-Leis Municipal Drain
Township of Wilmot
Our Reference No. WLMT-002**

A request has been received for improvements to the Koch-Leis Municipal Drain. We have completed design work on this municipal drain and would like to review our findings with everyone concerned.

This review will cover:

1. Type and design of drainage system
2. Estimated Costs
3. Proposed Assessment of costs.

We will be present at the **Wilmot Recreation Complex Wayne Roth Meeting Room** located at **1291 Nafziger Road** on **Thursday November 24, 2022, at 1:00pm.**

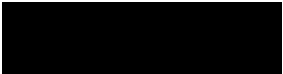
The draft design drawings, assessment schedules and other presentation materials will be available through our website following the meeting. Please use the following instructions for accessing the presentation materials.

1. Visit www.headwayeng.ca
2. Select '**Public Engagements**' from the upper right corner.
3. Find '**Koch-Leis Municipal Drain**' and select '**Read More**'.
4. You will be prompted for a password. The Password is: **WLMT-002**

Please plan to attend since this meeting is being held to review this municipal drainage project and answer any questions concerning the proposed work before preparing the final report.

If you have any questions beforehand, please telephone (226) 243-6614.

Yours truly,



Adam Hall
Project Coordinator
HEADWAY ENGINEERING

AH/

Jeff Molenhuis, P. Eng.
Director of Infrastructure Services
Township of Wilmot
60 Snyder's Road West
Baden, Ontario N3A 1A1
jeff.molenhuis@wilmot.ca

John Kuntze, P.Eng.
Drainage Superintendent
Township of Wilmot
85 McIntyre Drive
Kitchener, Ontario N2R 1H6
jkuntze@ksmart.ca

Josh Graham
Supervisor, Corridor Management
Region of Waterloo
150 Frederick Street
Kitchener, Ontario N2G 4J3

264171 Holding Inc.
C/O Robert Sanderson
[REDACTED]
Campbellville, ON
L0P 1B0

Jeffrey Furtado and Paige Stewart
[REDACTED]
Wellesley, Ontario
N0B 2T0

Robert and Anne Jantzi
[REDACTED]
Wellesley, Ontario
N0B 2T0

Ammon and Elvina Bauman
[REDACTED]
Wellesley, Ontario
N0B 2T0

David & Sherri Homanchuk
[REDACTED]
RR 1 St. Agatha, ON
N0B 2L0

Peter & Dagmar Schneider
[REDACTED]
RR 1 St. Agatha, ON
N0B 2L0

Kenneth & Catherine Heintz
[REDACTED]
RR 1 St. Agatha, ON
N0B 2L0

Roadside Farms
[REDACTED]
Wellesley, Ontario
N0B 2T0

Eva and David Cressman
[REDACTED]
Wellesley, Ontario
N0B 2T0

Lucy Gawron
[REDACTED]
Wellesley, Ontario
N0B 2T0

Jananna Corp
264 Dearborn Blvd
Waterloo, Ontario
N2J 4Y6

Theresa Gawron
tjgawron@shaw.ca

Trevor Heywood
Resource Planner
Grand River Conservation Authority
theywood@grandriver.ca



Koch-Leis Municipal Drain

Township of Wilmot – Public
Information Meeting
November 24, 2022



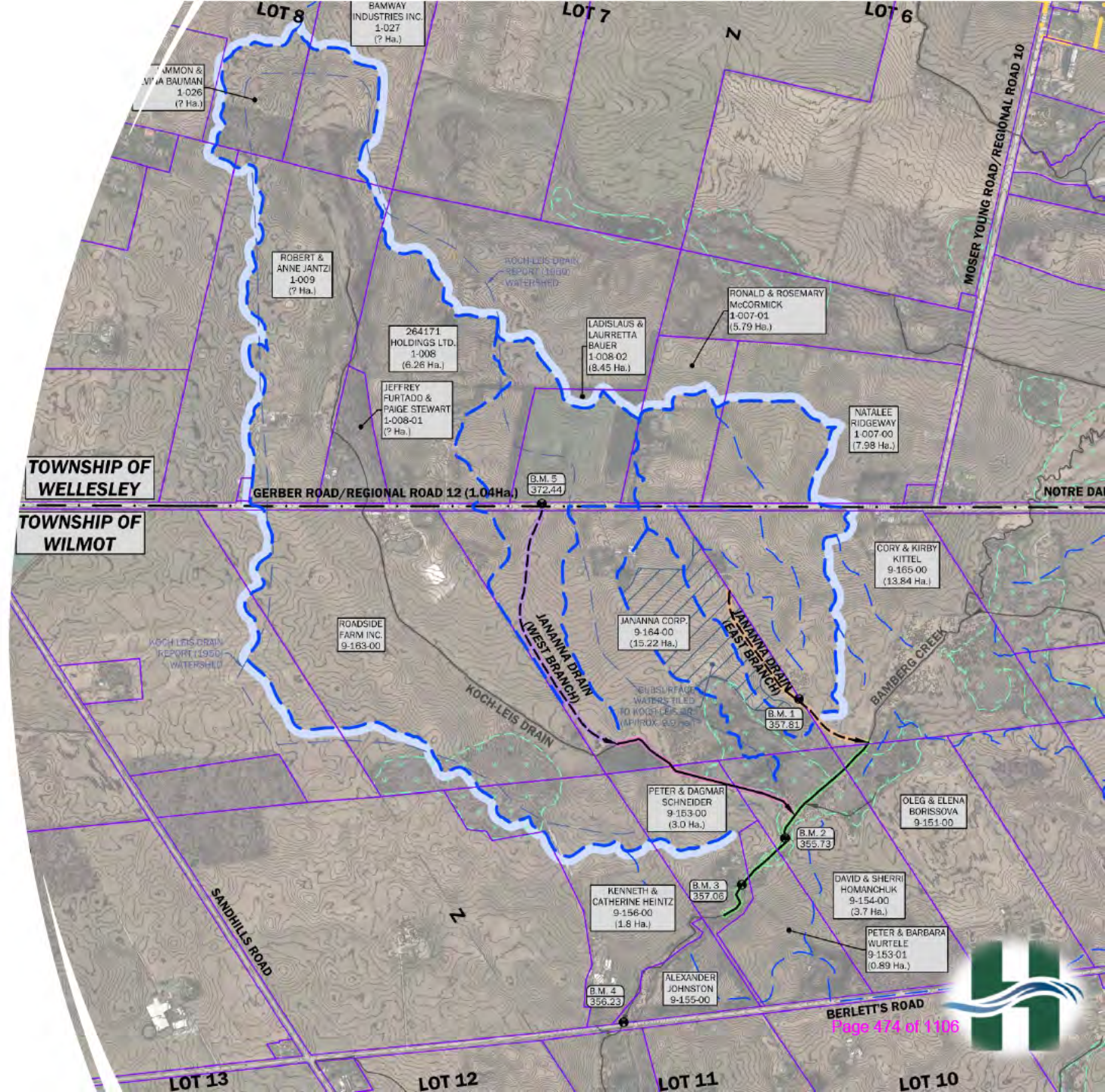
Authority

- Headway was appointed under Section 4(1) of the Drainage Act on July 12, 2021 (about 16 months)



Purpose of this Meeting

- To notify Landowners in the Koch-Leis Drain watershed of possible improvements.
- To provide background information and details on the possible improvements.
- To receive input.
- To learn if other improvements are needed at other locations along the Koch-Leis Drain.



Project Timeline

12 Jul. 2021

- Headway Engineering Appointed to investigate a petition for drainage.

22 Sep. 2021

- Onsite Meeting (Jananna Drain)

29 Sep. 2022

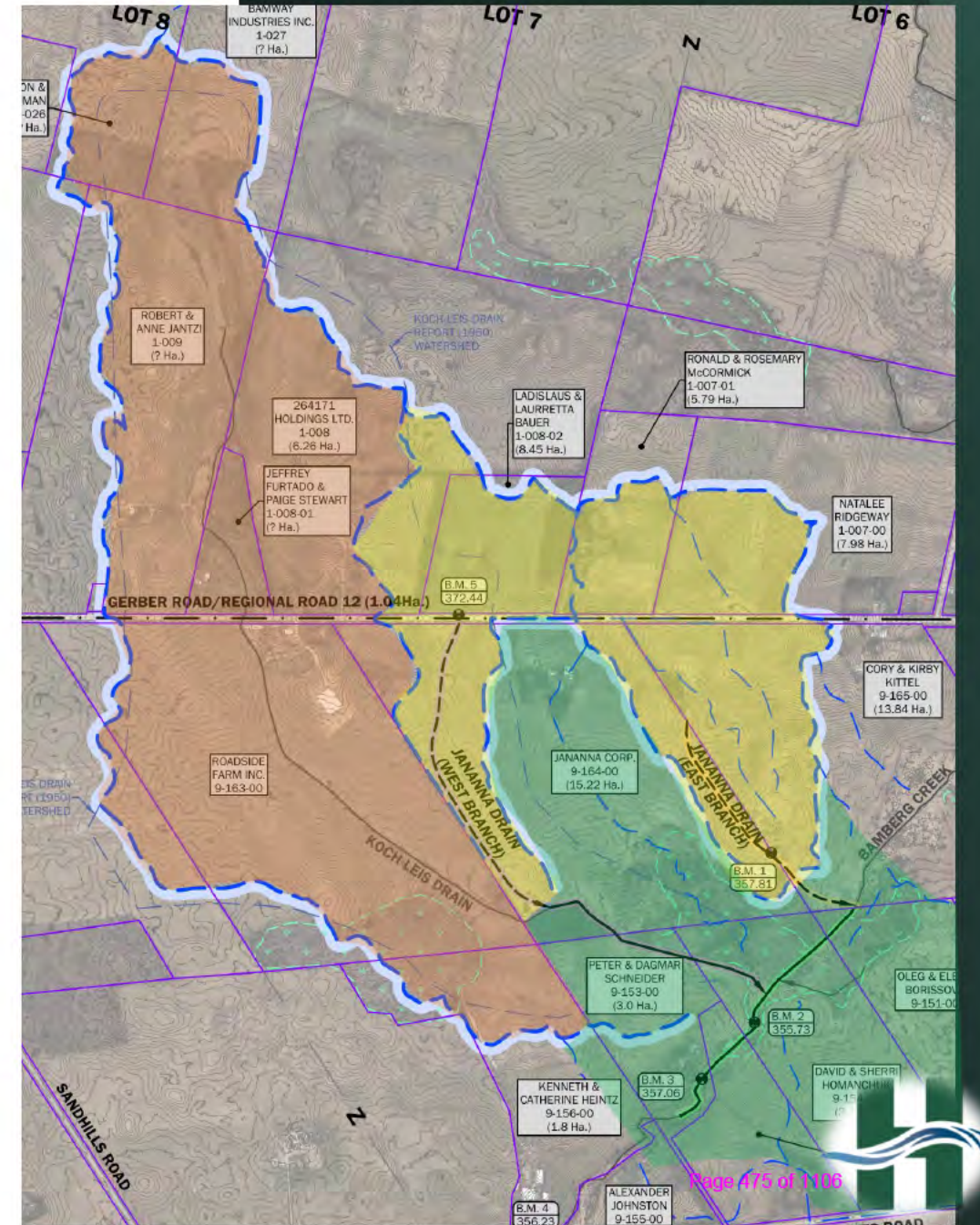
- Public Information Meeting (Jananna Drain)

30 Sep. 2022

- Request for Koch-Leis Drain Improvements

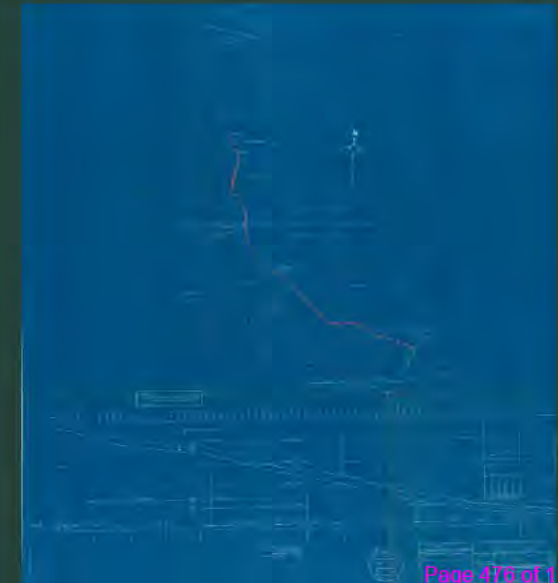
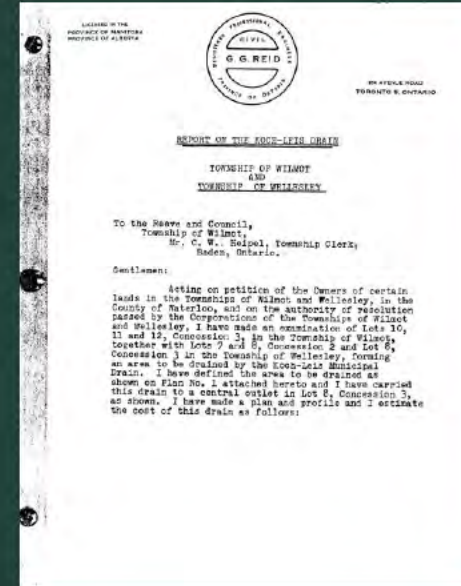
24 Nov. 2022 (Today)

- Public Information Meeting (Koch-Leis Drain)

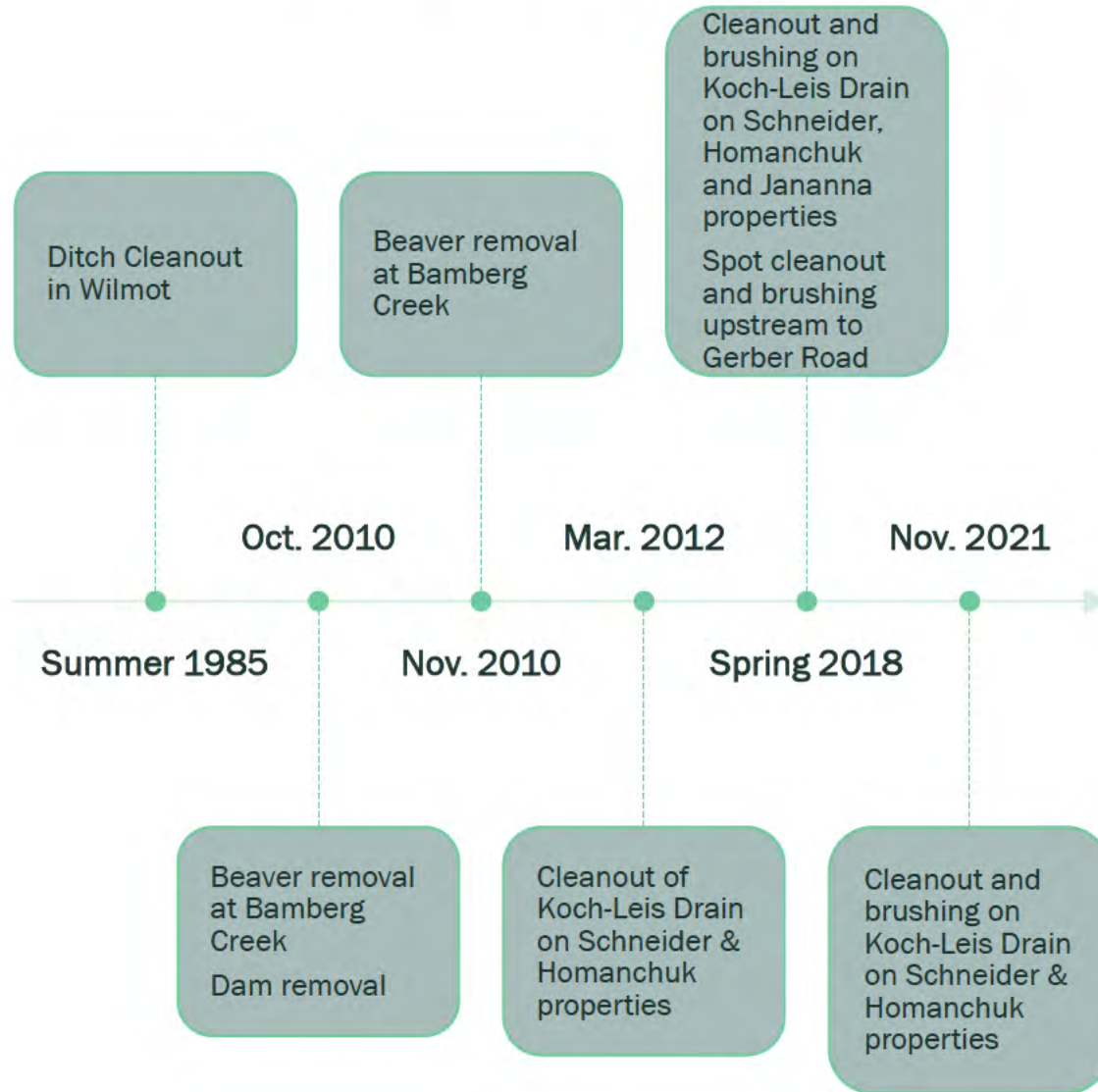


Koch-Leis Drain History

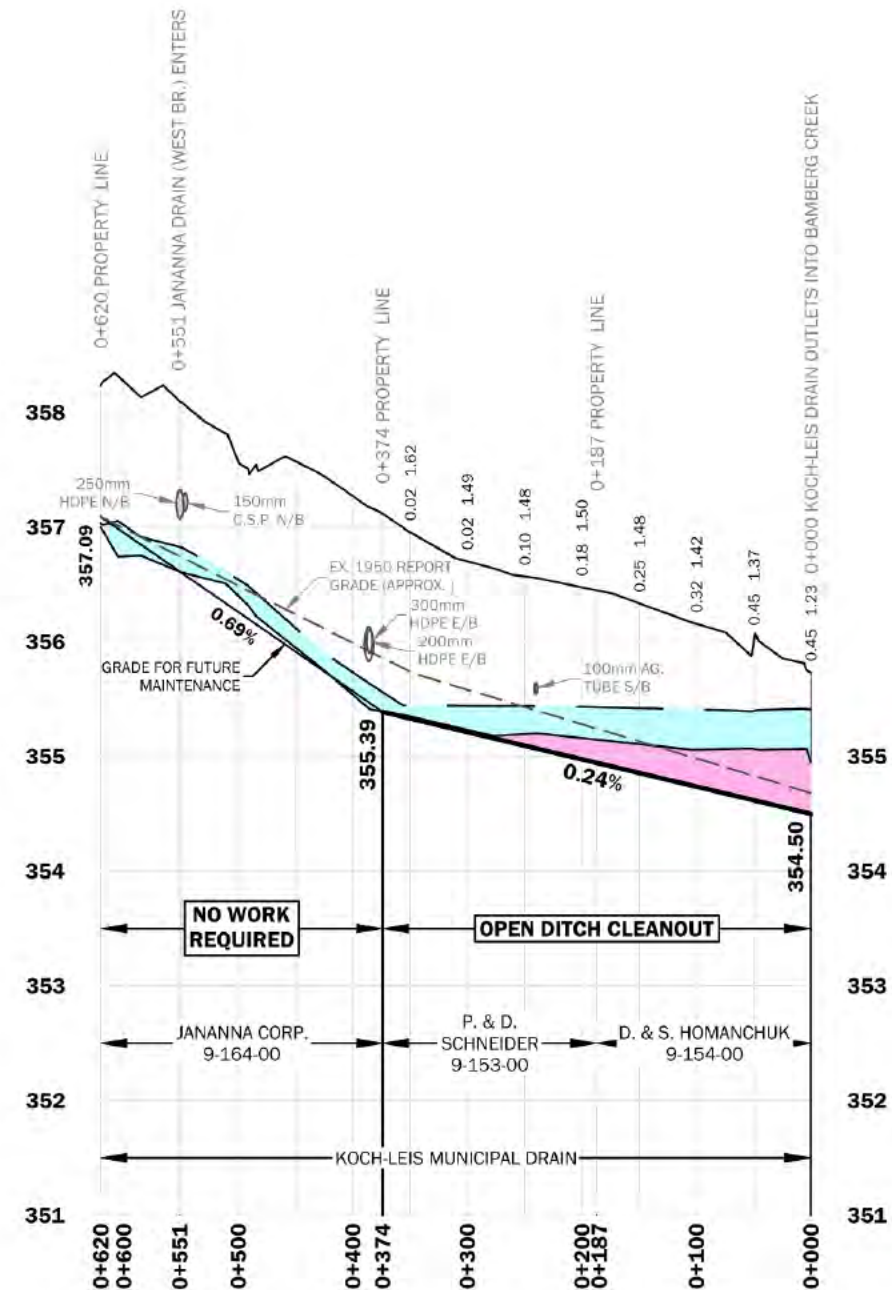
- Originally constructed under the authority of a report prepared by Graham Reid & Associates, dated November 15, 1950 (72 years ago).
 - Adjustments were made to the alignment of the drain in Wellesley Township during construction.
- There haven't been any new reports since.



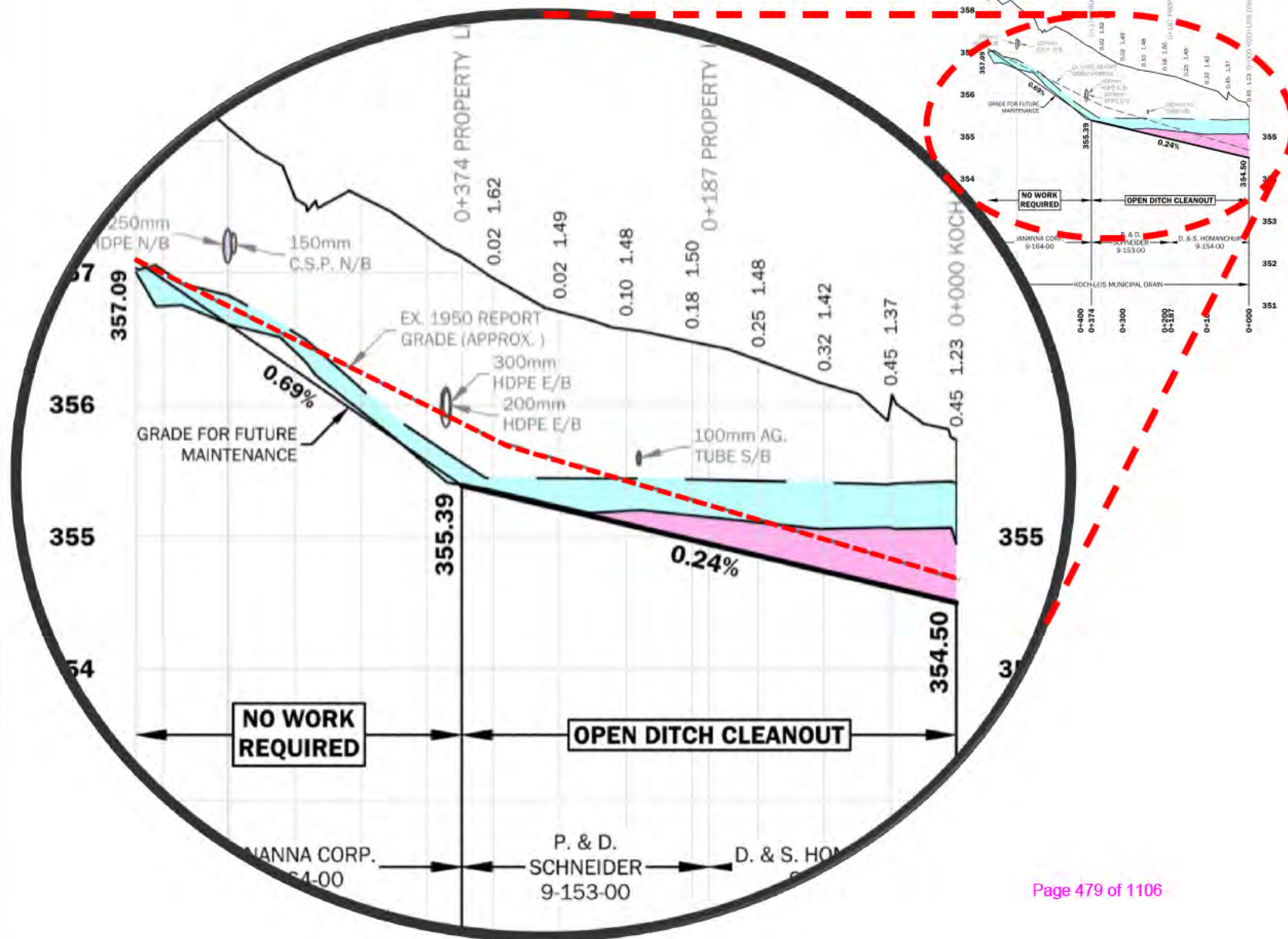
Maintenance History



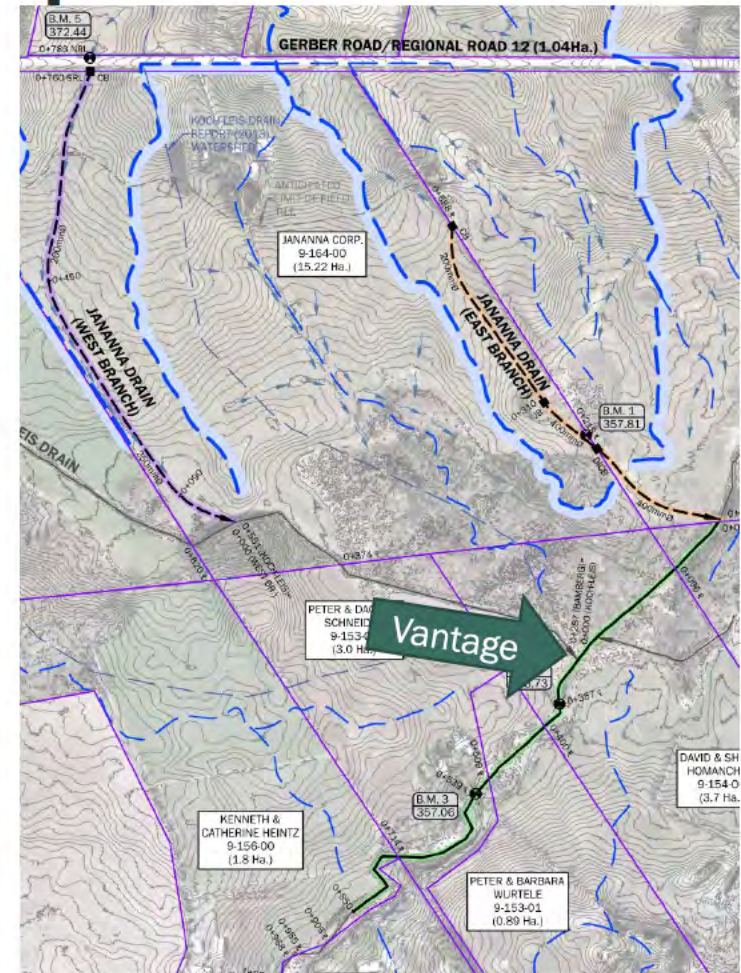
Koch-Leis Profile (changes over time)



Koch-Leis Profile (changes over time)



Findings – Bamberg Creek Depth

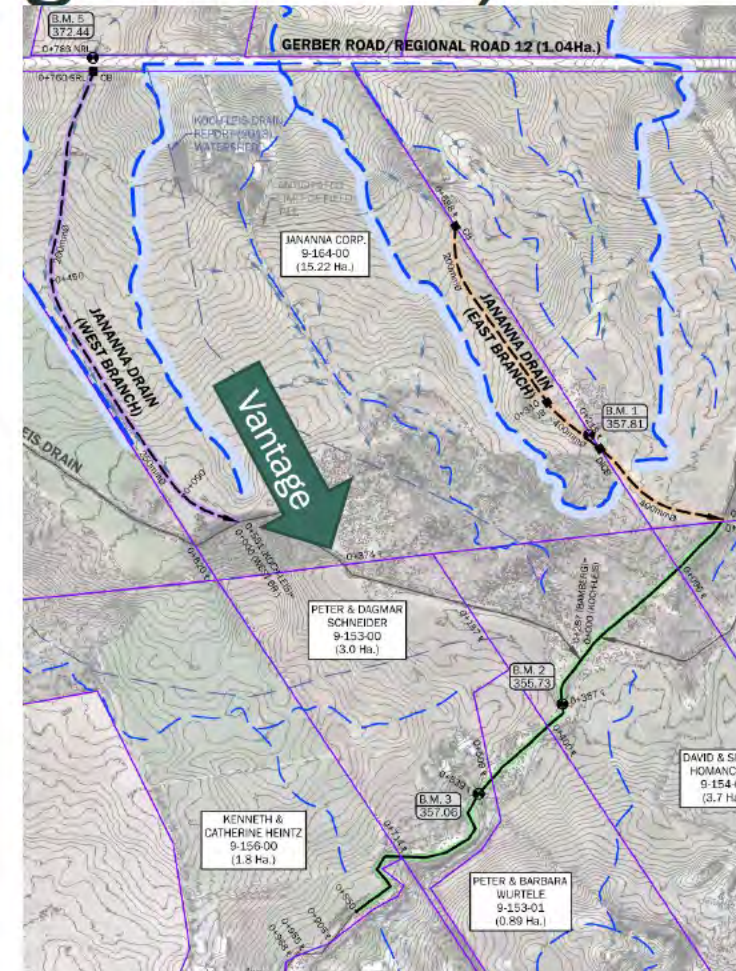


November 24, 2021





Findings – Koch-Leis Drain Outlet (example of good outlet)



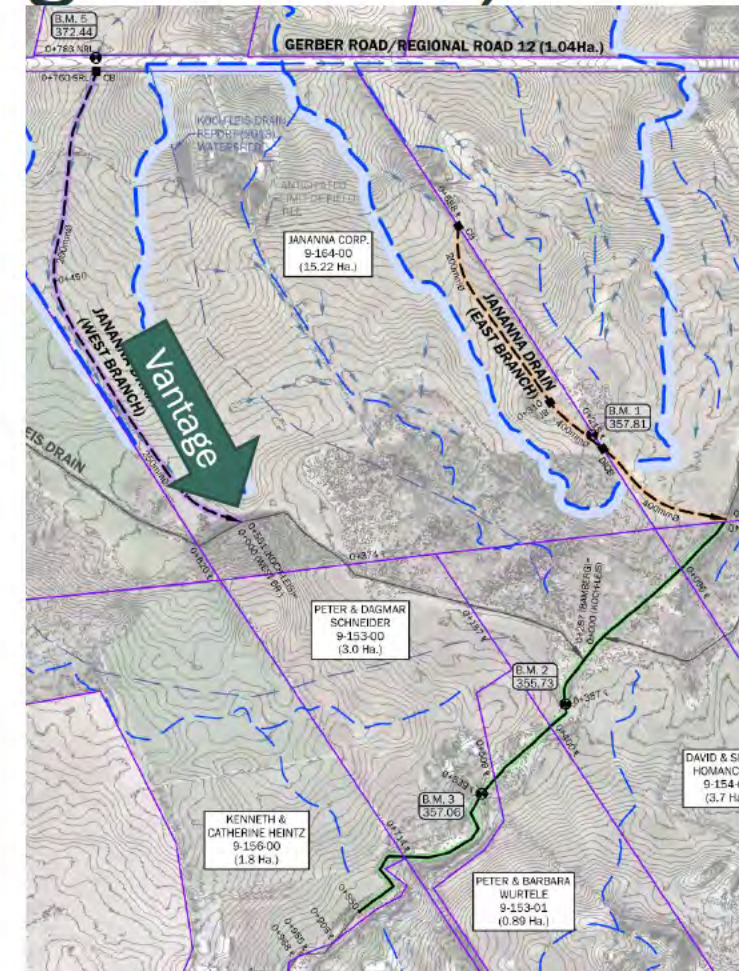
November 24, 2021





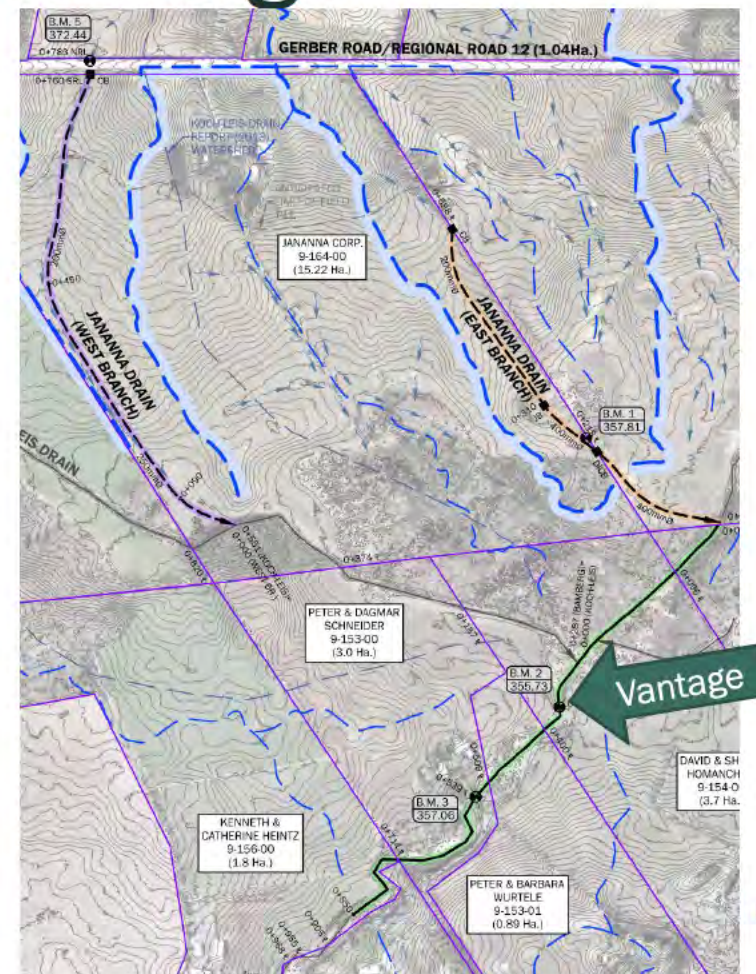
November 24, 2021

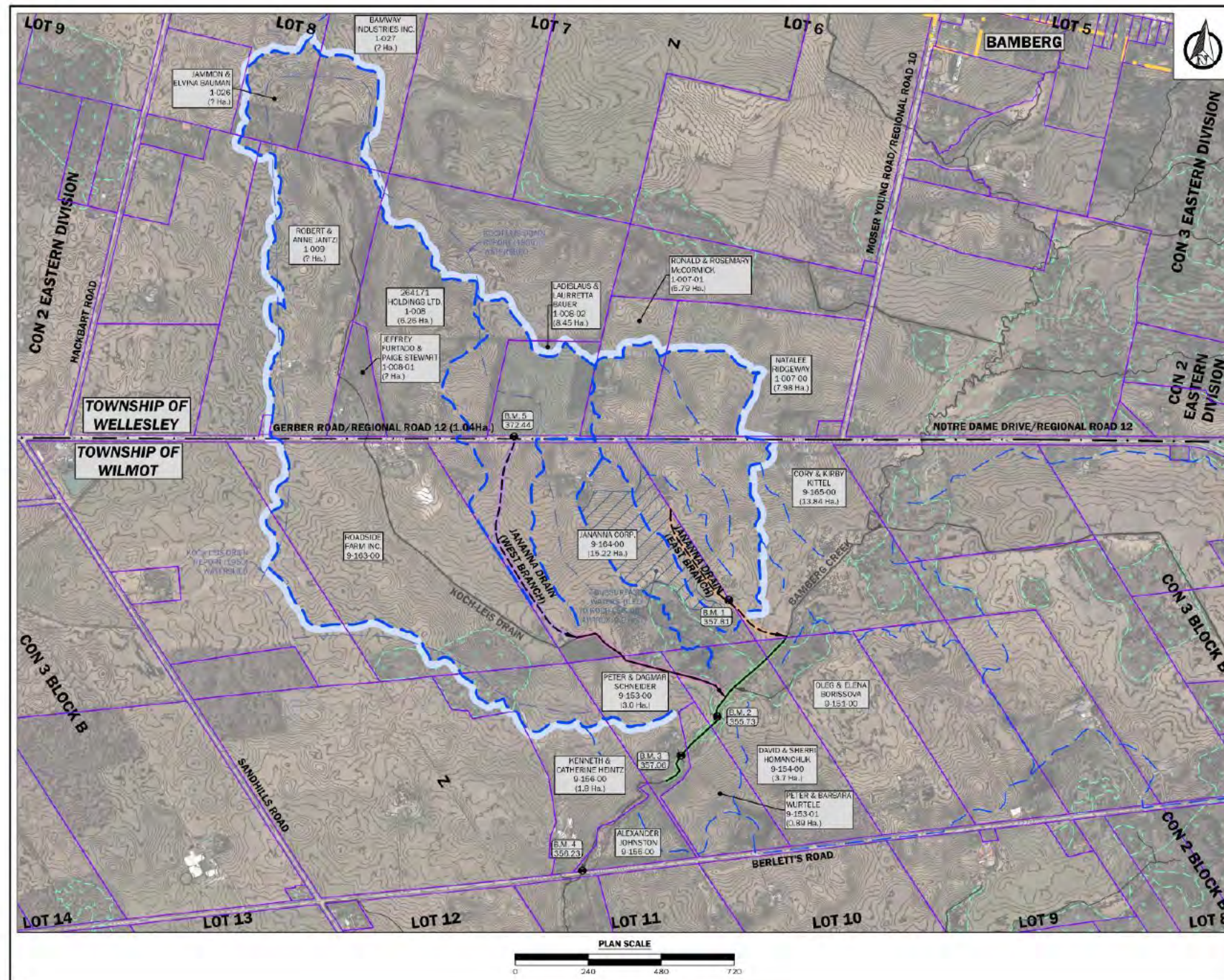
Findings – Koch-Leis Drain Outlet (example of good outlet)





Findings – Crossings





NOTES:

1. AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
2. CONTOURS GENERATED USING 2015 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

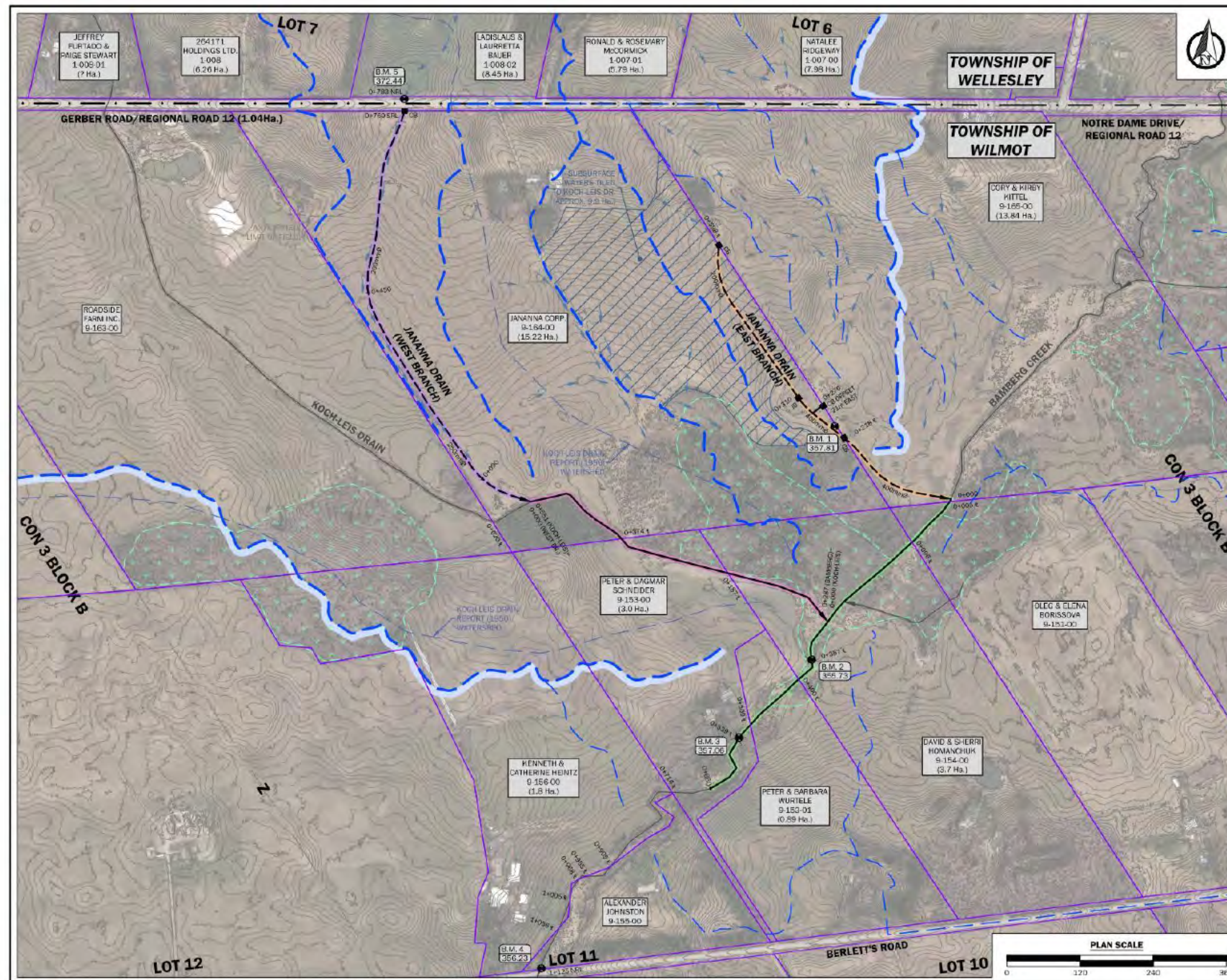
BENCHMARK DESCRIPTIONS


- BENCHMARK No. 1** ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 500mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)
- BENCHMARK No. 3** ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)
- BENCHMARK No. 4** ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)
- BENCHMARK No. 5** ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+790 (WEST BR.)

LEGEND

- LOT/CONCESSION LINE
 - PROPERTY LINE
 - URBAN BOUNDARY
 - TOWNSHIP BOUNDARY
 - MAJOR WATERSHED BOUNDARY
 - MINOR WATERSHED BOUNDARY
 - WETLAND LIMIT
- BENCHMARK LOCATION**
- BENCHMARK No.**
- BENCHMARK ELEVATION**
- LANDOWNER NAME(S)**
- ASSESSMENT ROLL No. (ABBREVIATED)**
- APPROX. AREA AFFECTED**
- EXISTING FEATURES:**
- DRAIN NAME** OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
 - DRAIN NAME** CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
 - OVERLAND FLOW PATH
- PROPOSED FEATURES:**
- DRAIN NAME** OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
 - DRAIN NAME** CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

No.	REVISION	DATE (Y-M-D)
3	INFORMATION MEETING NO. 2	22-11-24
2	INFORMATION MEETING	22-09-23
1	ON-SITE MEETING	21-08-22





WARD 2

JANANNA MUNICIPAL DRAIN

Work Area Plan

NOTES:

- AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
- CONTOURS GENERATED USING 2018 LIDAR DERIVED DATASET REPRESENTING BARE EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 **ELEV.=357.81**
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)

BENCHMARK No. 2 **ELEV.=355.73**
TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)

BENCHMARK No. 3 **ELEV.=357.06**
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)

BENCHMARK No. 4 **ELEV.=356.23**
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)

BENCHMARK No. 5 **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (WEST BR.)

LEGEND

- LOT/CONCESSION LINE
- PROPERTY LINE
- TOWNSHIP BOUNDARY
- MAJOR WATERSHED BOUNDARY
- MINOR WATERSHED BOUNDARY
- WETLAND LIMIT
- BENCHMARK LOCATION
- BENCHMARK No.
- BENCHMARK ELEVATION
- LANDOWNER NAME(S)
- ASSESSMENT ROLL No. (ABBREVIATED)
- APPROX. AREA AFFECTED


EXISTING FEATURES:

- OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
- CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
- OVERLAND FLOW PATH

PROPOSED FEATURES:

- OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
- CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

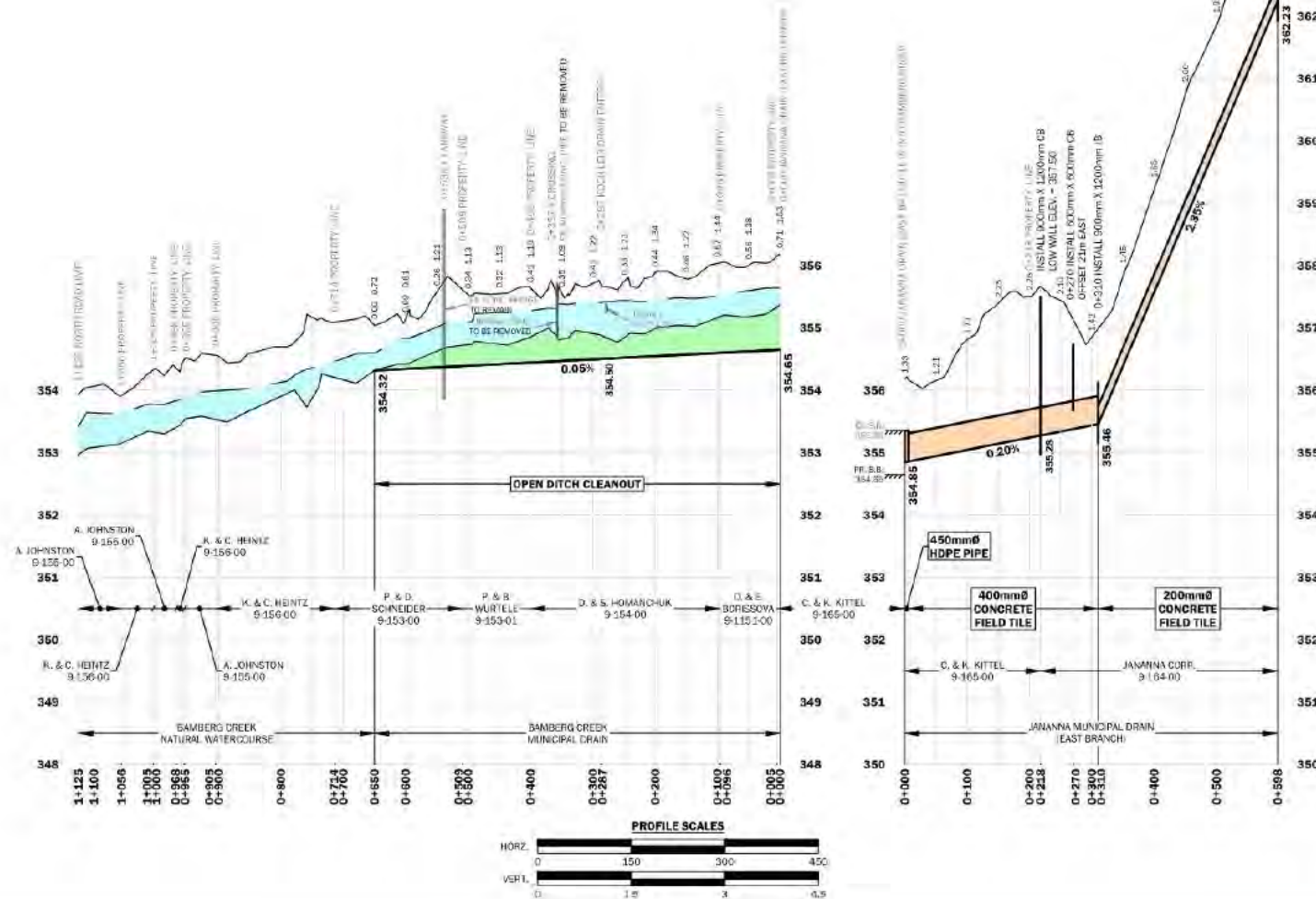
NO.	REVISION	DATE (Y-M-D)
3	INFORMATION MEETING NO. 2	22-11-24
2	INFORMATION MEETING	22-09-23
1	ON SITE MEETING	21-05-22



DRAWN BY:	DESIGNED BY:	APPROVED BY:
R.U.	A.H.	
DATE: 2022-11-24	REFERENCE NO: WLMT-002	DRAWING No: 2 OF 6

SCHEDULE OF PIPE MATERIALS

MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1. HIGH DENSITY POLYETHYLENE OUTLET PIPE	450	0+000 - 0+006	6
2. CONCRETE FIELD TILE	400	0+006 - 0+310	304
3. CONCRETE FIELD TILE	200	0+310 - 0+508	198



WARD 2

JANANNA MUNICIPAL DRAIN

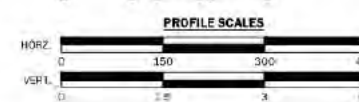
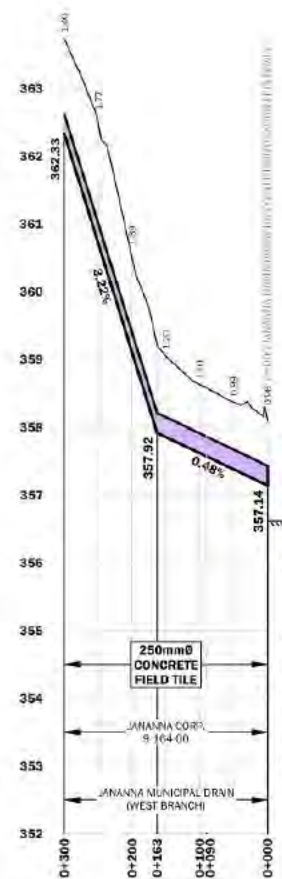
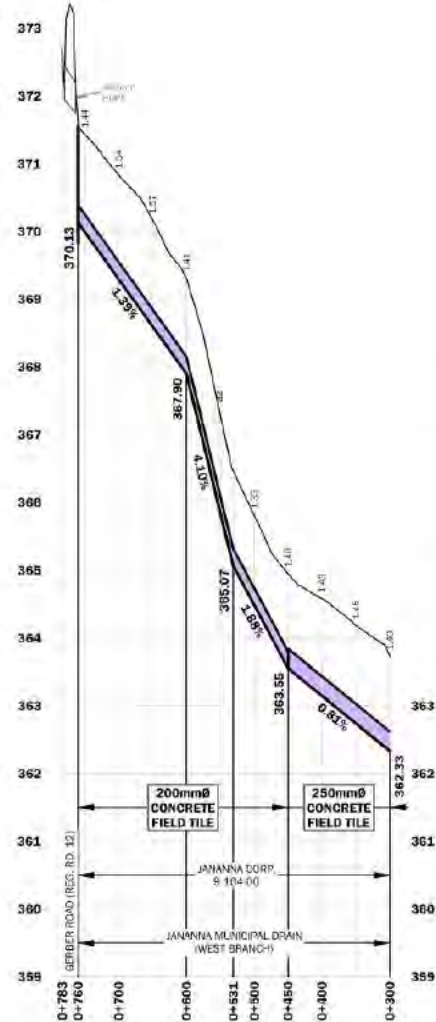
Jananna Drain (East Branch) Profile

BENCHMARK DESCRIPTIONS

- BENCHMARK No. 1** ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 600mm CONCRETE CULVERT AT STA. 0+358 (BAMBERG)
- BENCHMARK No. 3** ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)
- BENCHMARK No. 4** ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)
- BENCHMARK No. 5** ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mm H D P.E. SURFACE CULVERT AT STA. 0+180 (?)

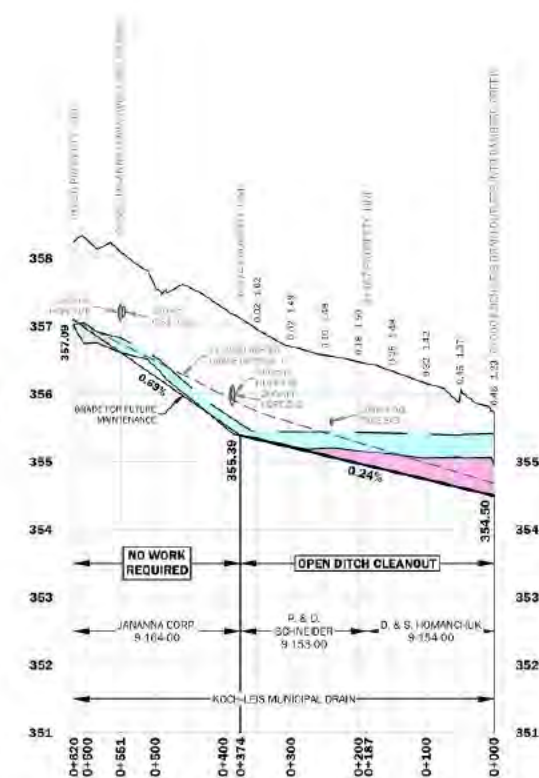
8	INFORMATION MEETING NO. 2	22-11-24
2	INFORMATION MEETING	22-09-23
1	ON SITE MEETING	21-05-22
NO.	REVISION	DATE (BY NAME)

1. 150mm DIA. 100mm DEPTH
 2. 150mm DIA. 100mm DEPTH
 3. 150mm DIA. 100mm DEPTH
 4. 150mm DIA. 100mm DEPTH
 5. 150mm DIA. 100mm DEPTH
 6. 150mm DIA. 100mm DEPTH
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 97. 150mm DIA. 100mm DEPTH
 98. 150mm DIA. 100mm DEPTH
 99. 150mm DIA. 100mm DEPTH
 100. 150mm DIA. 100mm DEPTH



SCHEDULE OF PIPE MATERIALS

MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1. HIGH DENSITY POLYETHYLENE OUTLET PIPE	250	0+000 - 0+006	6
2. CONCRETE FIELD TILE	250	0+006 - 0+450	444
3. CONCRETE FIELD TILE	200	0+450 - 0+760	310



WARD 2

JANANNA MUNICIPAL DRAIN

Jananna Drain (West Branch) Profile

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)

BENCHMARK No. 2 ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 600mm CONCRETE CULVERT AT STA. 0+358 (BAMBERG)

BENCHMARK No. 3 ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)

BENCHMARK No. 4 ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 0+120 (BAMBERG)

BENCHMARK No. 5 ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mm H D P.E. SURFACE CULVERT AT STA. 0+780 (?)

NO.	DESCRIPTION	DATE
1	INFORMATION MEETING NO. 1	22-11-24
2	INFORMATION MEETING	22-09-29
3	ON SITE MEETING	21-05-22

DATE: 2022-11-24

DESIGNED BY: S.H.

DRAWN BY: S.H.

CHECKED BY: S.H.

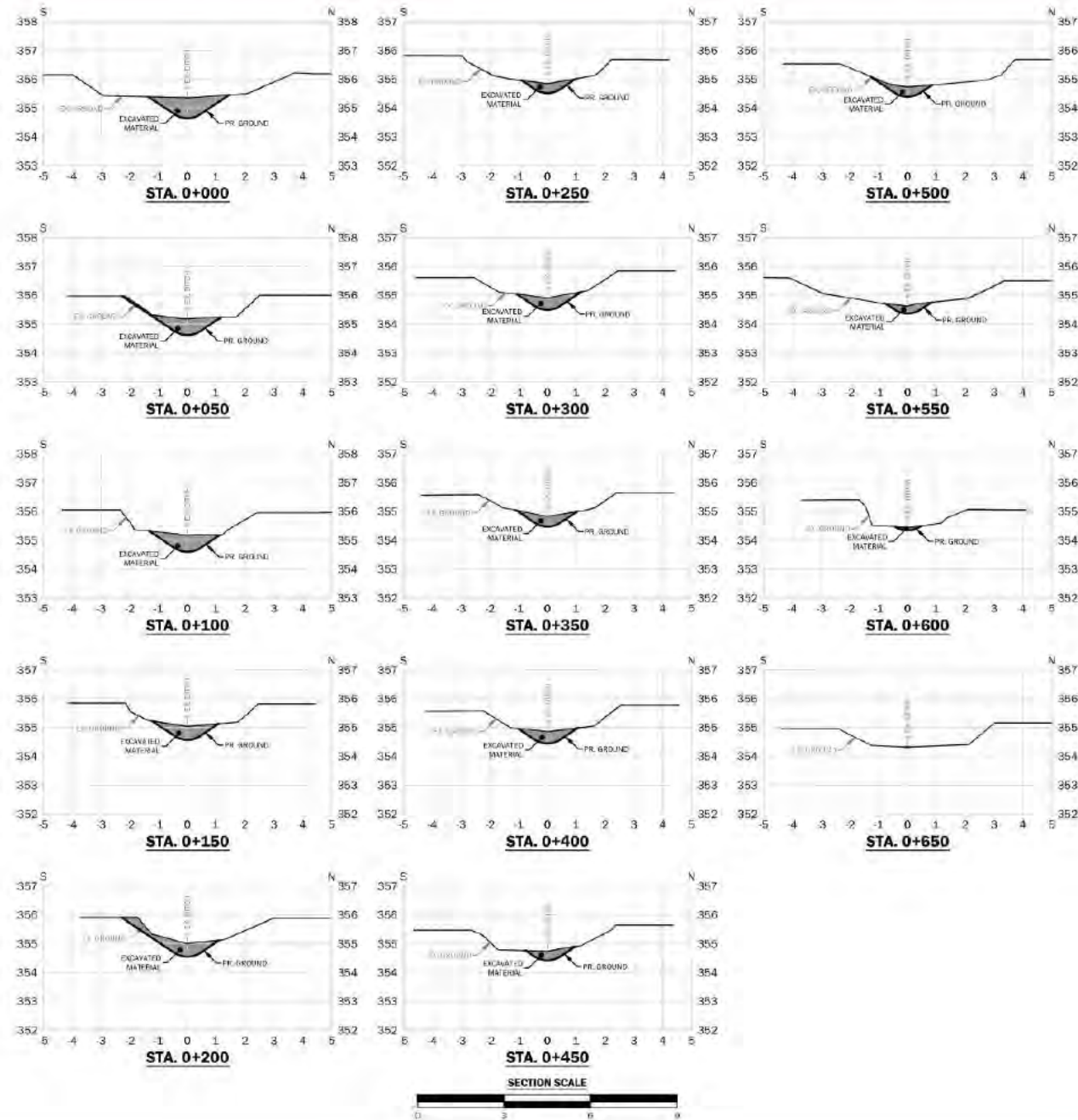
APPROVED BY: S.H.

DATE: 2022-11-24

PROJECT NO: WLM-002

DRAWING NO: 4 OF 6

Page 48 of 1106



BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)

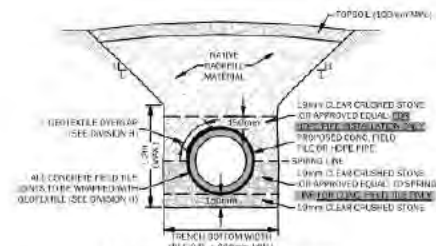
BENCHMARK No. 2 ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 600mm² CONCRETE CULVERT AT STA. 0+358 (BAMBERG)

BENCHMARK No. 3 ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)

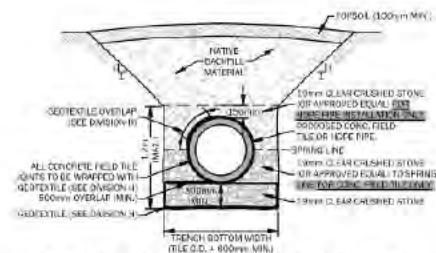
BENCHMARK No. 4 ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 0+125 (BAMBERG)

BENCHMARK No. 5 ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mm² H.D.P.E. SURFACE CULVERT AT STA. 0+180 (?)

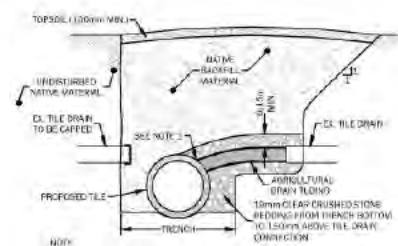
3	INFORMATION MEETING NO. 2	22-11-24
2	INFORMATION MEETING	22-09-23
1	ON SITE MEETING	21-05-22
Rev	REVISION	DATE (F-W-M-C)



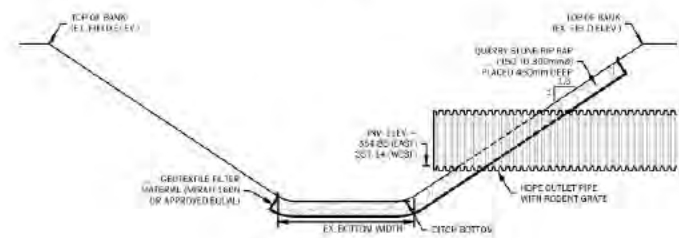
**TYPICAL PIPE INSTALLATION
ON STONE BEDDING DETAIL**
N.T.S.



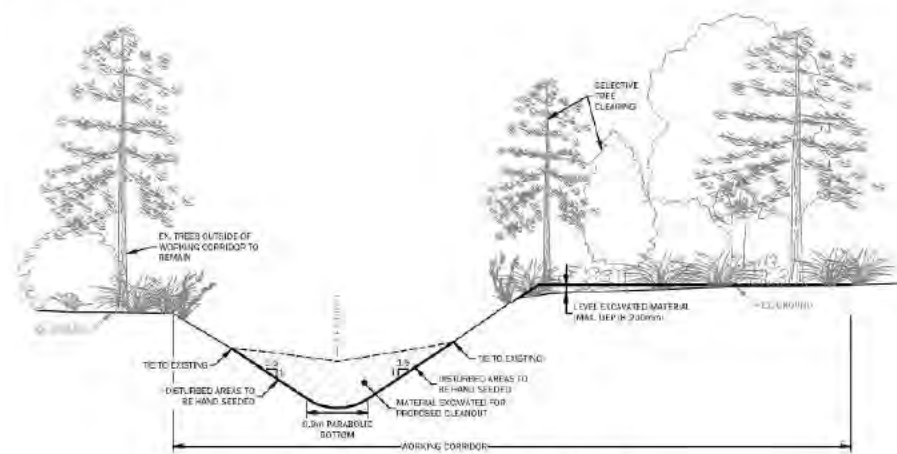
**TYPICAL PIPE INSTALLATION ON WRAPPED
STONE BEDDING DETAIL (PROVISIONAL ITEM)**
N.T.S.



TYPICAL TILE CONNECTION DETAIL
N.T.S.



TYPICAL OUTLET DETAIL
N.T.S.



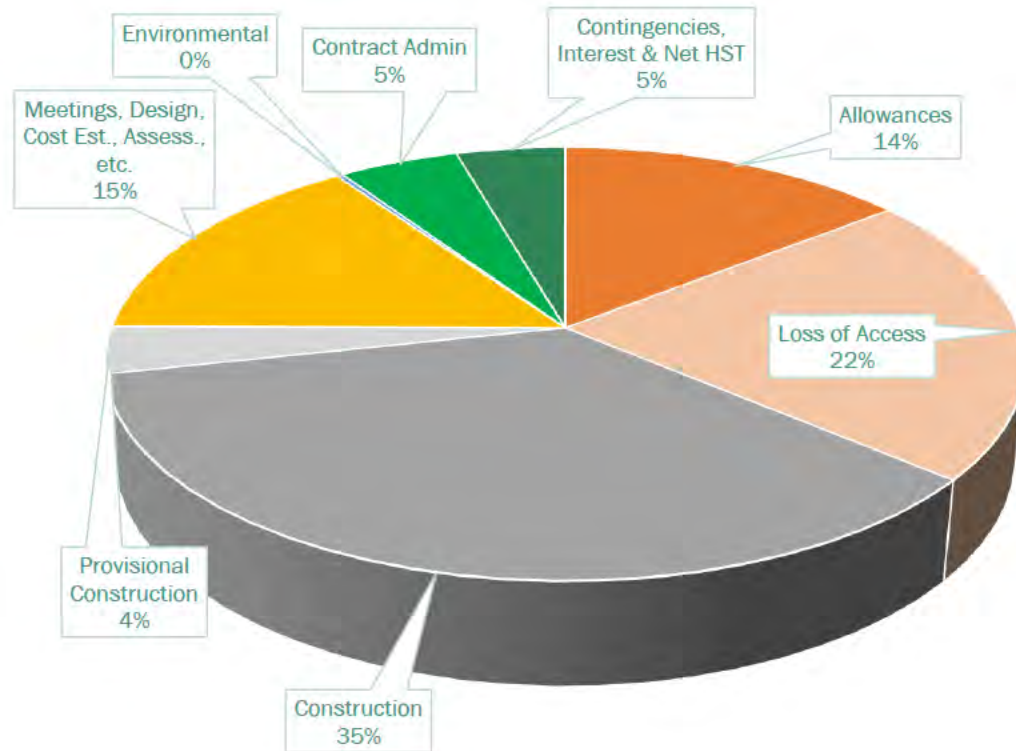
TYPICAL OPEN DITCH CLEANOUT DETAIL
N.T.S.

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1	ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)	
BENCHMARK No. 2	ELEV.=355.73
TOP CENTRE DOWNSTREAM END OF 600mm ϕ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)	
BENCHMARK No. 3	ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)	
BENCHMARK No. 4	ELEV.=356.23
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TOP CENTRE UPSTREAM END OF 450mm ϕ D.P.E. SURFACE CULVERT AT STA. 0+780 (?)	

8	INFORMATION MEETING NO. 2	22-11-24
2	INFORMATION MEETING	22-09-29
1	ON SITE MEETING	21-05-22
NO.	DATE	DATE
NO.	DATE	DATE

Estimated Project Costs



Allowances



Construction Costs (including Contingencies)



Meetings/Correspondence, Design Review, Cost Estimates, Reporting, etc.



Environmental Consultations



Contract Documents, Administration, Supervision & Inspection



Interest & NET HST

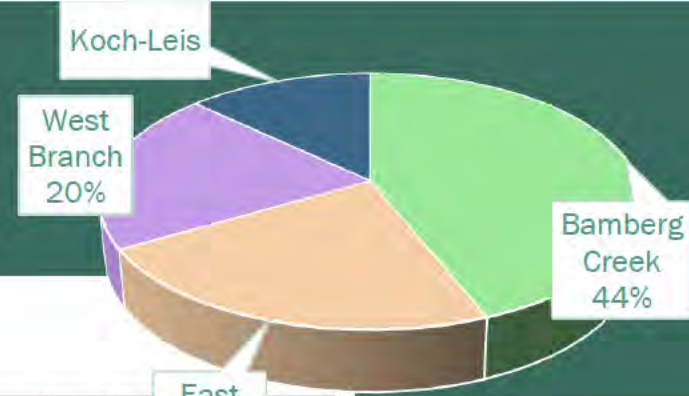


Total Estimated Costs: \$462,900



Assessment of Costs

Schedule of Assessment for Construction Bamberg Creek, Jananna and Koch-Leis Municipal Drains 2022



Bamberg Creek, Jananna and Koch-Leis Municipal Drains 2022	Property Details				Assessment Summary					For Inform		East
												Branch
	Part			Roll	Bamberg Creek			Koch-Leis	Total	Less Gov't	Less	23%
	Lot	Concession	Landowner	Number	Drain	East Branch	West Branch	Drain	Assessment	Grant	Allowances	imited
	Township of Wilmot											
	9	3 Block B	Oleg & Elena Borissova	9-151	\$ 7,857.00	\$ -	\$ -	\$ -	\$ 7,857.00	\$ 2,619.00	\$ 3,040.00	\$ 2,198.00
	9	3 Block B	Cory & Kirby Kittle	9-165	\$ 22,615.00	\$ 26,756.00	\$ -	\$ -	\$ 49,371.00	\$ 16,457.00	\$ 7,580.00	\$ 25,334.00
	10	3 Block B	Peter & Dagmar Schneider	9-153	\$ 14,433.00	\$ -	\$ -	\$ 17,389.00	\$ 31,822.00	\$ 10,607.00	\$ 16,070.00	\$ 5,145.00
	10	3 Block B	Peter & Barbara Wurtele	9-153-01	\$ 45,013.00	\$ -	\$ -	\$ -	\$ 45,013.00	\$ 15,004.00	\$ 37,110.00	\$ (7,101.00)
	10	3 Block B	David & Sherri Homanchuk	9-154	\$ 63,738.00	\$ -	\$ -	\$ 8,513.00	\$ 72,251.00	\$ 24,084.00	\$ 50,140.00	\$ (1,973.00)
10	3 Block B	Jananna Corp.	9-164	\$ 21,689.00	\$ 61,299.00	\$ 57,500.00	\$ 25,864.00	\$ 166,352.00	\$ 55,451.00	\$ 53,460.00	\$ 57,441.00	
11	3 Block B	Kenneth & Catherine Heintz	9-156	\$ 1,030.00	\$ -	\$ -	\$ 202.00	\$ 1,232.00	\$ 411.00	\$ -	\$ 821.00	
11	3 Block B	Roadside Farm Inc.	9-163	\$ 8,864.00	\$ -	\$ -	\$ 3,158.00	\$ 12,022.00	\$ 4,007.00	\$ -	\$ 8,015.00	
12	3 Block B	David & Eva Cressman	9-160	\$ 684.00	\$ -	\$ -	\$ 244.00	\$ 928.00	\$ 309.00	\$ -	\$ 619.00	
Total Assessments on Lands					\$ 185,923.00	\$ 88,055.00	\$ 57,500.00	\$ 55,370.00	\$ 386,848.00	\$ 128,949.00	\$ 167,400.00	\$ 90,499.00
Gerber Road		Region of Waterloo			\$ 4,364.00	\$ 7,205.00	\$ 20,255.00	\$ 825.00	\$ 32,649.00			\$ 32,649.00
Total Assessments on Roads					\$ 4,364.00	\$ 7,205.00	\$ 20,255.00	\$ 825.00	\$ 32,649.00			\$ 32,649.00
Total Assessments												
Main Open Township of Wilmot					\$ 190,287.00	\$ 95,260.00	\$ 77,755.00	\$ 56,195.00	\$ 419,497.00	\$ 128,949.00	\$ 167,400.00	\$ 123,148.00
Township of Wellesley												
6	2 East	Natalee Ridgeway	1-007-00	\$ 1,571.00	\$ 5,529.00	\$ -	\$ -	\$ 7,100.00	\$ 2,367.00			\$ 4,733.00
6	2 East	Ronald & Rosemary McCormick	1-007-01	\$ 1,140.00	\$ 4,011.00	\$ -	\$ -	\$ 5,151.00	\$ 1,717.00			\$ 3,434.00
7	2 East	Ladislaus & Laurretta Bauer	1-008-02	\$ 848.00	\$ -	\$ 9,395.00	\$ 302.00	\$ 10,545.00	\$ 3,515.00			\$ 7,030.00
7	2 East	264171 Holdings Ltd.	1-008	\$ 2,757.00	\$ -	\$ 7,650.00	\$ 982.00	\$ 11,389.00	\$ 3,796.00			\$ 7,593.00
7	2 East	Jeffrey Furtado & Paige Stewart	1-008-01	\$ 99.00	\$ -	\$ -	\$ 35.00	\$ 134.00	\$ 45.00			\$ 89.00
8	2 East	Robert & Anne Jantzi	1-009	\$ 4,759.00	\$ -	\$ -	\$ 1,696.00	\$ 6,455.00	\$ 2,152.00			\$ 4,303.00
8	3 East	Bamway Industries Inc.	1-027	\$ 1,006.00	\$ -	\$ -	\$ 358.00	\$ 1,364.00	\$ 455.00			\$ 909.00
8	3 East	Jammon & Elvina Bauman	1-026	\$ 933.00	\$ -	\$ -	\$ 332.00	\$ 1,265.00	\$ 422.00			\$ 843.00
Total Assessments on Lands					\$ 13,113.00	\$ 9,540.00	\$ 17,045.00	\$ 3,705.00	\$ 43,403.00	\$ 14,469.00	\$ -	\$ 28,934.00
Total Assessments												
Township of Wellesley					\$ 13,113.00	\$ 9,540.00	\$ 17,045.00	\$ 3,705.00	\$ 43,403.00	\$ 14,469.00	\$ -	\$ 28,934.00
Total Assessments												
Bamberg Creek, Jananna and Koch-Leis Municipal					\$ 203,400.00	\$ 104,800.00	\$ 94,800.00	\$ 59,900.00	\$ 462,900.00	\$ 143,418.00	\$ 167,400.00	\$ 152,082.00



Process

- Appointment of an Engineer – Complete
- Onsite Meeting – Complete
- Survey – Complete
- Drafting – Complete
- Design and Cost Estimating – Complete
- **Public Engagements – Today**
- Environmental Consultations – Ongoing
- Prepare final Report
- **Processing the Report – Next Slide**
- Tendering
- Construction
- Recover Costs

Processing the Report



Engineer files the report with the Township



Township schedules Meeting to Consider the Report



Township mails a copy of the report, and a Notice of the Meeting to Consider the Report to everybody affected



Meeting to Consider



Township forwards a copy of the provisional by-law to Landowners, along with a notice of the Court of Revision



Appeals Process

Court of Revision – Assessment Based Appeals

Tribunal and Referee (if necessary)

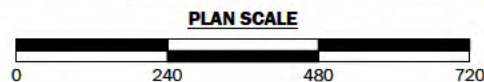


Third Reading of the By-Law



Process

- Appointment of an Engineer – Complete
- Onsite Meeting – Complete
- Survey – Complete
- Drafting – Complete
- Design and Cost Estimating – Complete
- **Public Engagements – Today**
- Environmental Consultations – Ongoing
- Prepare final Report
- **Processing the Report – Next Slide**
- Tendering
- Construction
- Recover Costs



NOTES:

1. AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
2. CONTOURS GENERATED USING 2018 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 **ELEV.=357.81**
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)

BENCHMARK No. 2 **ELEV.=355.73**
TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)

BENCHMARK No. 3 **ELEV.=357.06**
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)

BENCHMARK No. 4 **ELEV.=356.23**
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)

BENCHMARK No. 5 **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (WEST BR.)

LEGEND

- LOT/CONCESSION LINE
 - PROPERTY LINE
 - URBAN BOUNDARY
 - TOWNSHIP BOUNDARY
 - MAJOR WATERSHED BOUNDARY
 - MINOR WATERSHED BOUNDARY
 - WETLAND LIMIT
- BENCHMARK LOCATION**
- B.M. 1** 123.45
BENCHMARK No.
BENCHMARK ELEVATION
- JOHN & JANE SMITH** 12-345
LANDOWNER NAME(S)
ASSESSMENT ROLL No. (ABBREVIATED)
APPROX. AREA AFFECTED

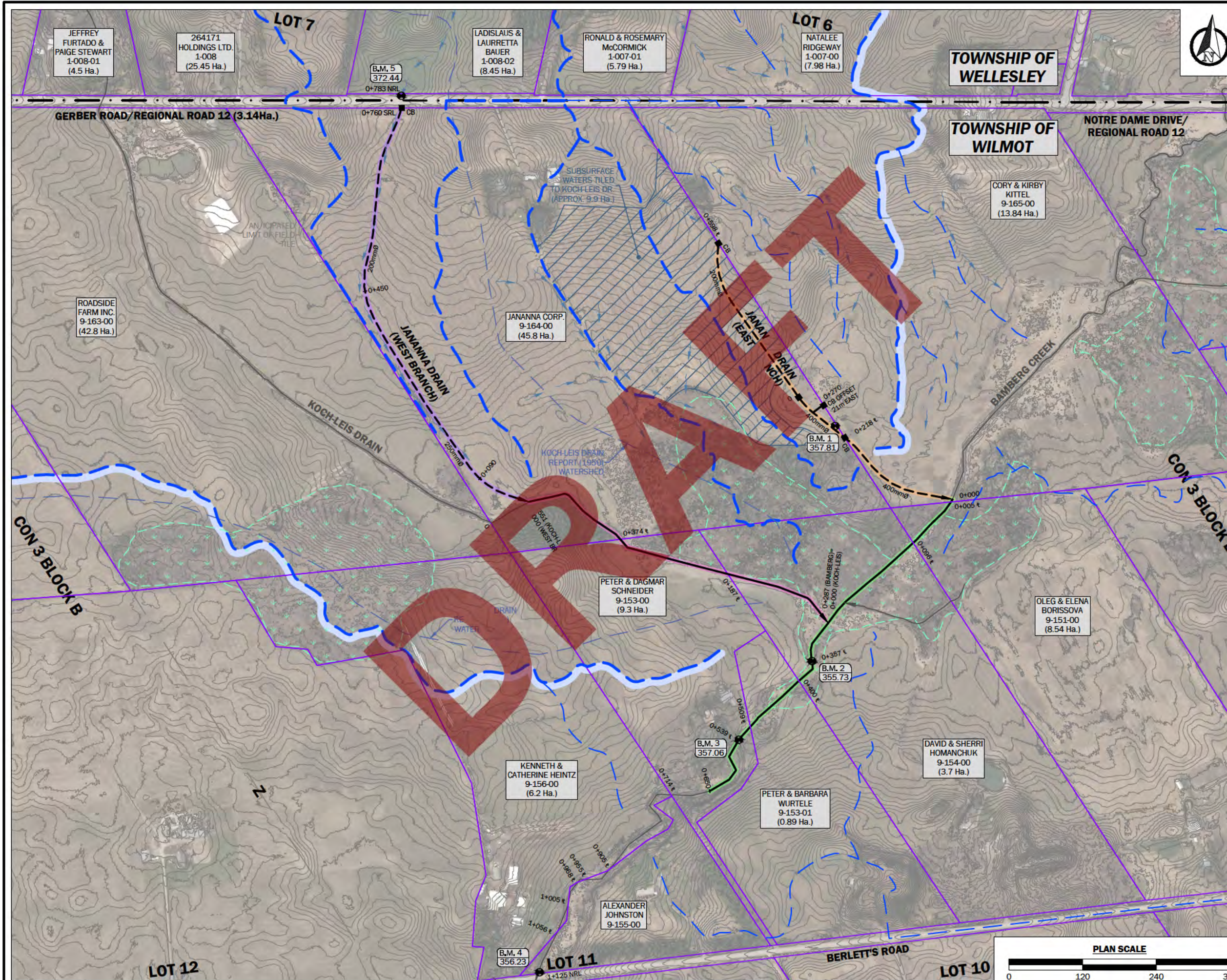
EXISTING FEATURES:

- DRAIN NAME** OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
- DRAIN NAME** CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
- OVERLAND FLOW PATH

PROPOSED FEATURES:

- DRAIN NAME** OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
- DRAIN NAME** CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

No.	REVISION	DATE (YY-MM-DD)
3	KOCH-LEIS INFORMATION MTG.	22-11-24
2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22



NOTES:
1. AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
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- BENCHMARK No. 5** **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (WEST BR.)

LEGEND

LOT/CONCESSION LINE
PROPERTY LINE
TOWNSHIP BOUNDARY
MAJOR WATERSHED BOUNDARY
MINOR WATERSHED BOUNDARY
WETLAND LIMIT

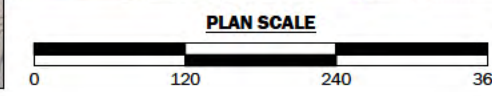
BENCHMARK LOCATION
B.M. 1
123.45
BENCHMARK No.
BENCHMARK ELEVATION

JOHN & JANE SMITH
12-345
12.3 Ha.
LANDOWNER NAME(S)
ASSESSMENT ROLL No. (ABBREVIATED)
APPROX. AREA AFFECTED

EXISTING FEATURES:
DRAIN NAME (---) OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
DRAIN NAME (---) CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
OVERLAND FLOW PATH

PROPOSED FEATURES:
DRAIN NAME (---) OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
DRAIN NAME (---) CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

No.	REVISION	DATE (YY-MM-DD)
3	KOCH-LEIS INFORMATION MTG.	22-11-24
2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22



WARD 2

**JANANNA
MUNICIPAL DRAIN**

Jananna Drain
(East Branch) Profile

BENCHMARK DESCRIPTIONS

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NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)

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TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)

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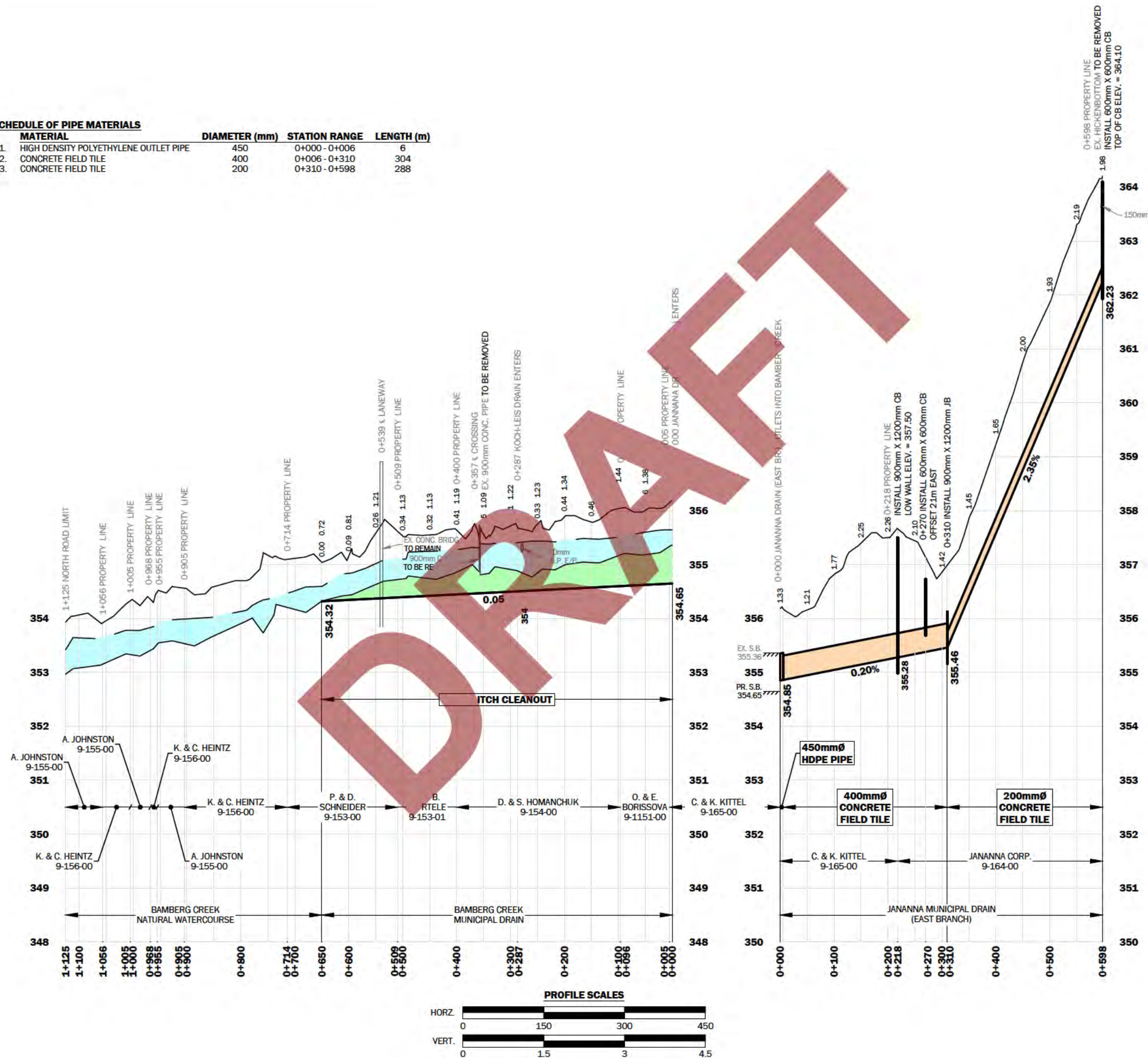
BENCHMARK No. 4 **ELEV.=356.23**
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)

BENCHMARK No. 5 **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (?)

3	KOCH-LEIS INFORMATION MTG.	22-11-24
2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)

SCHEDULE OF PIPE MATERIALS

	MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1.	HIGH DENSITY POLYETHYLENE OUTLET PIPE	450	0+000 - 0+006	6
2.	CONCRETE FIELD TILE	400	0+006 - 0+310	304
3.	CONCRETE FIELD TILE	200	0+310 - 0+598	288

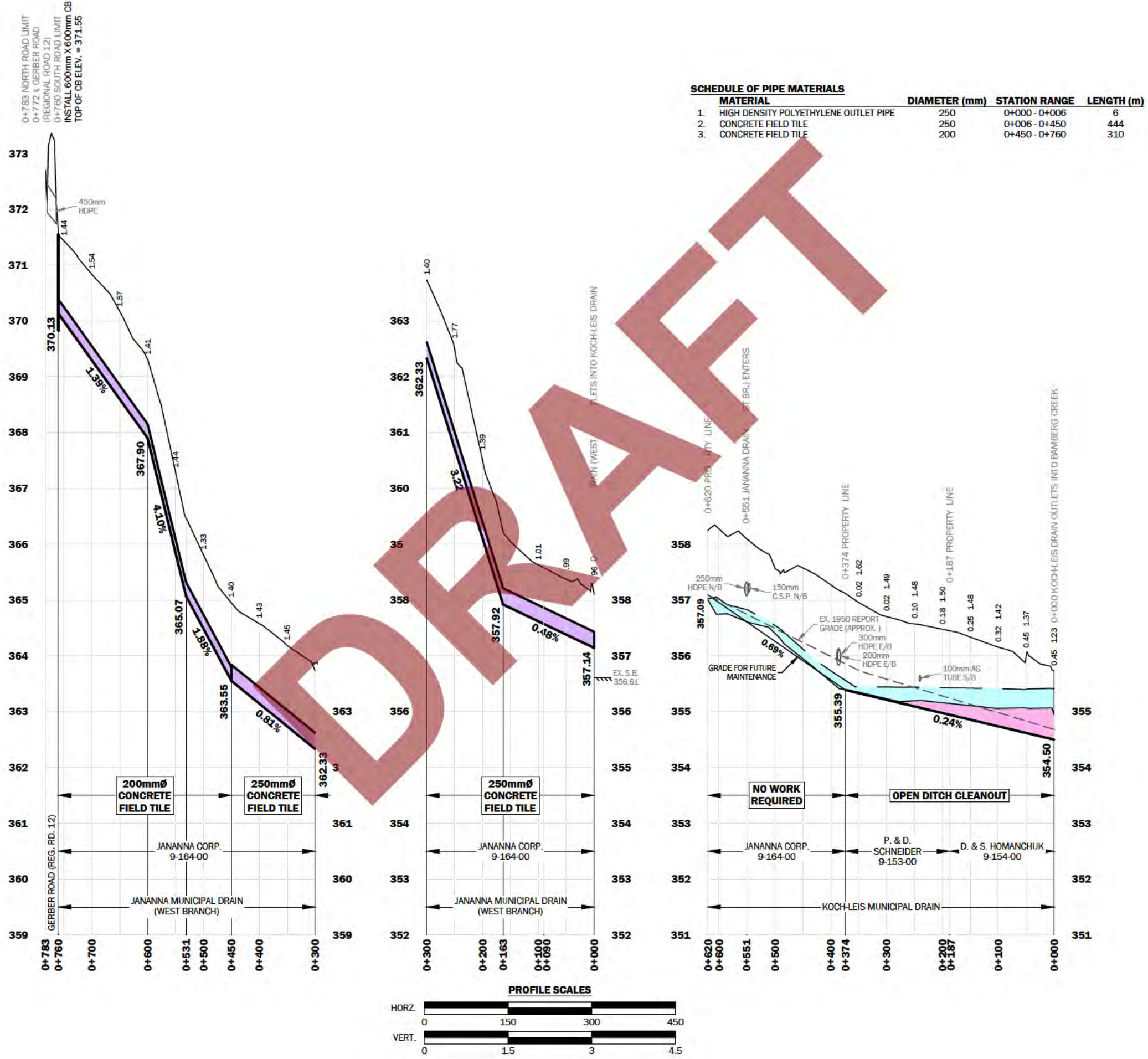


JANANNA MUNICIPAL DRAIN

Jananna Drain (West Branch) Profile

BENCHMARK DESCRIPTIONS

- BENCHMARK No. 1** **ELEV.=357.81**
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA)
- BENCHMARK No. 2** **ELEV.=355.73**
TOP CENTRE DOWNSTREAM END OF 900mmØ CONCRETE CULVERT AT STA. 0+358 (BAMBERG)
- BENCHMARK No. 3** **ELEV.=357.06**
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)
- BENCHMARK No. 4** **ELEV.=356.23**
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)
- BENCHMARK No. 5** **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (?)



3	KOCH-LEIS INFORMATION MTG.	22-11-24
2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)



DRAWN BY: R.U.	DESIGNED BY: A.H.	CHECKED BY: S.B.
DATE: 2022-11-24	REFERENCE No. WLMT-002	DRAWING No. 4 OF 6

WARD 2

**JANANNA
MUNICIPAL DRAIN**

Bamberg Creek Sections

BENCHMARK DESCRIPTIONS

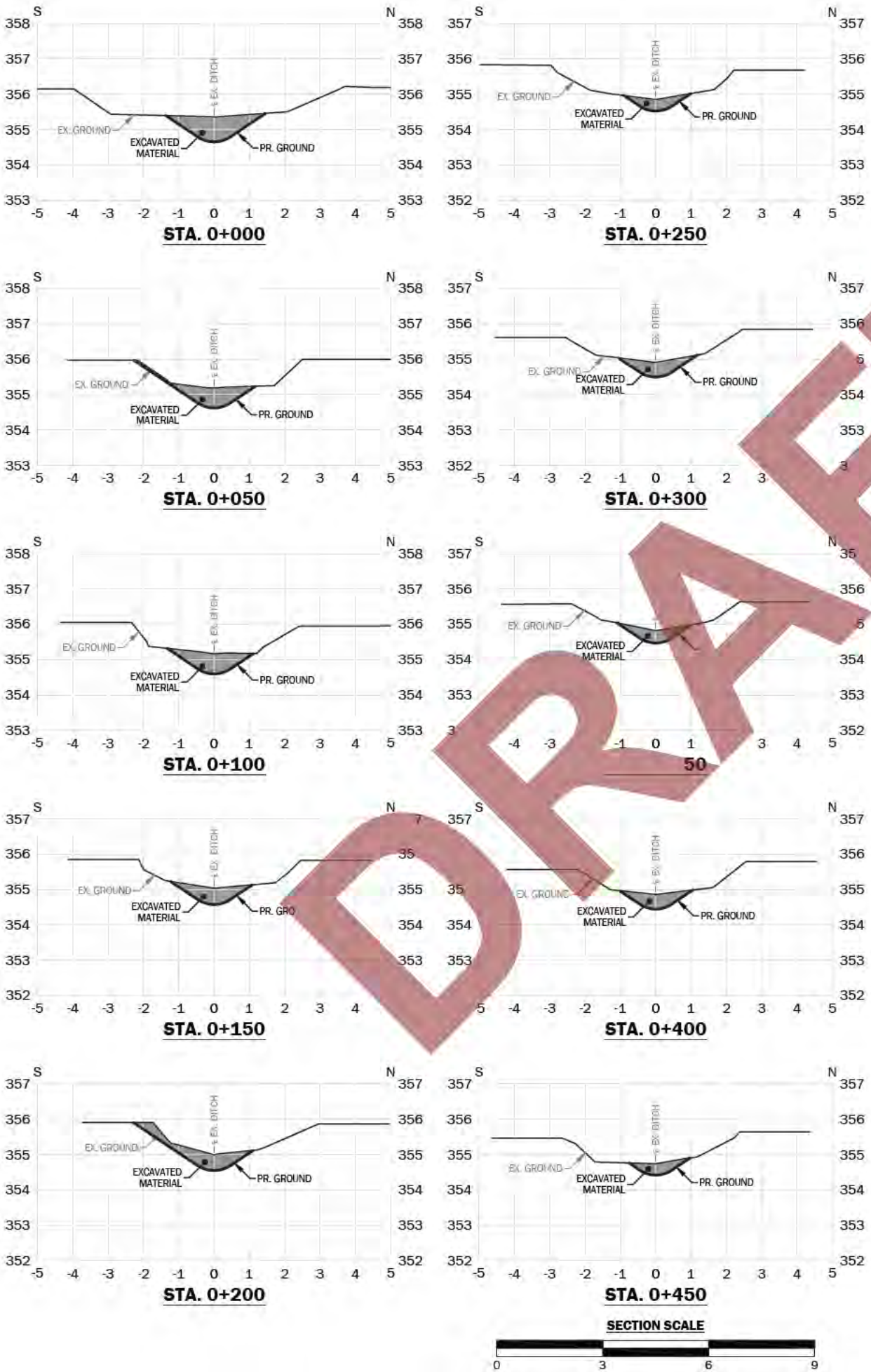
BENCHMARK No. 1 **ELEV.=357.81**
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(BAMBERG)

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TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT
STA. 1+125 (BAMBERG)

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TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE
CULVERT AT STA. 0+780 (?)



3	KOCH-LEIS INFORMATION MTG.	22-11-24
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1	ON-SITE MEETING	21-09-22
No.	REVISION	DATE (YY-MM-DD)



DRAWN BY: R.U.	DESIGNED BY: A.H.	CHECKED BY: S.B.
DATE: 2022-11-24	REFERENCE No. WLMT-002	DRAWING No. 5 OF 6

**Schedule of Assessment for Construction
Bamberg Creek, Jananna and Koch-Leis Municipal Drains 2022**

Bamberg Creek, Jananna and Koch-Leis Municipal Drains 2022	Property Details				Assessment Summary					For Information		
	Part Lot	Concession	Landowner	Roll Number	Bamberg Creek Drain	East Branch	West Branch	Koch-Leis Drain	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
	Township of Wilmot											
	9	3 Block B	Oleg & Elena Borissova	9-151	\$ 7,857.00	\$ -	\$ -	\$ -	\$ 7,857.00	\$ 2,619.00	\$ 3,040.00	\$ 2,198.00
	9	3 Block B	Cory & Kirby Kittle	9-165	\$ 22,615.00	\$ 26,756.00	\$ -	\$ -	\$ 49,371.00	\$ 16,457.00	\$ 7,580.00	\$ 25,334.00
	10	3 Block B	Peter & Dagmar Schneider	9-153	\$ 14,433.00	\$ -	\$ -	\$ 17,389.00	\$ 31,822.00	\$ 10,607.00	\$ 16,070.00	\$ 5,145.00
	10	3 Block B	Peter & Barbara Wurtele	9-153-01	\$ 45,013.00	\$ -	\$ -	\$ -	\$ 45,013.00	\$ 15,004.00	\$ 37,110.00	-\$ (7,101.00)
	10	3 Block B	David & Sherri Homanchuk	9-154	\$ 63,738.00	\$ -	\$ -	\$ 8,513.00	\$ 72,251.00	\$ 24,084.00	\$ 50,140.00	-\$ (1,973.00)
	10	3 Block B	Jananna Corp.	9-164	\$ 21,689.00	\$ 61,299.00	\$ 57,500.00	\$ 25,864.00	\$ 166,352.00	\$ 55,451.00	\$ 53,460.00	\$ 57,441.00
	11	3 Block B	Kenneth & Catherine Heintz	9-156	\$ 1,030.00	\$ -	\$ -	\$ 202.00	\$ 1,232.00	\$ 411.00	\$ -	\$ 821.00
	11	3 Block B	Roadside Farm Inc.	9-163	\$ 8,864.00	\$ -	\$ -	\$ 3,158.00	\$ 12,022.00	\$ 4,007.00	\$ -	\$ 8,015.00
	12	3 Block B	David & Eva Cressman	9-160	\$ 684.00	\$ -	\$ -	\$ 244.00	\$ 928.00	\$ 309.00	\$ -	\$ 619.00
Total Assessments on Lands					\$ 185,923.00	\$ 88,055.00	\$ 57,500.00	\$ 55,370.00	\$ 386,848.00	\$ 128,949.00	\$ 167,400.00	\$ 90,499.00
Gerber Road Region of Waterloo					\$ 4,364.00	\$ 7,205.00	\$ 20,255.00	\$ 825.00	\$ 32,649.00			\$ 32,649.00
Total Assessments on Roads					\$ 4,364.00	\$ 7,205.00	\$ 20,255.00	\$ 825.00	\$ 32,649.00			\$ 32,649.00
Total Assessments												
Main Open Township of Wilmot					\$ 190,287.00	\$ 95,260.00	\$ 77,755.00	\$ 56,195.00	\$ 419,497.00	\$ 128,949.00	\$ 167,400.00	\$ 123,148.00
Township of Wellesley												
6 2 East Natalee Ridgeway 1-007-00					\$ 1,571.00	\$ 5,529.00	\$ -	\$ -	\$ 7,100.00	\$ 2,367.00		\$ 4,733.00
6 2 East Ronald & Rosemary McCormick 1-007-01					\$ 1,140.00	\$ 4,011.00	\$ -	\$ -	\$ 5,151.00	\$ 1,717.00		\$ 3,434.00
7 2 East Ladislaus & Lauretta Bauer 1-008-02					\$ 848.00	\$ -	\$ 9,395.00	\$ 302.00	\$ 10,545.00	\$ 3,515.00		\$ 7,030.00
7 2 East 264171 Holdings Ltd. 1-008					\$ 2,757.00	\$ -	\$ 7,650.00	\$ 982.00	\$ 11,389.00	\$ 3,796.00		\$ 7,593.00
7 2 East Jeffrey Furtado & Paige Stewart 1-008-01					\$ 99.00	\$ -	\$ -	\$ 35.00	\$ 134.00	\$ 45.00		\$ 89.00
8 2 East Robert & Anne Jantzi 1-009					\$ 4,759.00	\$ -	\$ -	\$ 1,696.00	\$ 6,455.00	\$ 2,152.00		\$ 4,303.00
8 3 East Bamway Industries Inc. 1-027					\$ 1,006.00	\$ -	\$ -	\$ 358.00	\$ 1,364.00	\$ 455.00		\$ 909.00
8 3 East Jammon & Elvina Bauman 1-026					\$ 933.00	\$ -	\$ -	\$ 332.00	\$ 1,265.00	\$ 422.00		\$ 843.00
Total Assessments on Lands					\$ 13,113.00	\$ 9,540.00	\$ 17,045.00	\$ 3,705.00	\$ 43,403.00	\$ 14,469.00	\$ -	\$ 28,934.00
Total Assessments												
Township of Wellesley					\$ 13,113.00	\$ 9,540.00	\$ 17,045.00	\$ 3,705.00	\$ 43,403.00	\$ 14,469.00	\$ -	\$ 28,934.00
Total Assessments												
Bamberg Creek, Jananna and Koch-Leis Municipal Drains 2022					\$ 203,400.00	\$ 104,800.00	\$ 94,800.00	\$ 59,900.00	\$ 462,900.00	\$ 143,418.00	\$ 167,400.00	\$ 152,082.00

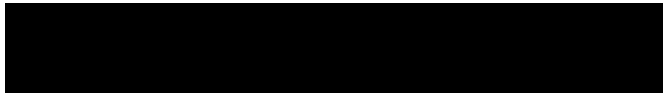
Project: **Jananna Drain-Koch Leis**Reference No. **WLMT-002**By: **a.h.**Date: **November 24, 2022**

Checked By:

Page: **1 of 2**Subject: **Preliminary Meeting – Sign-in Sheet**

Name	Organization or Property	Phone Number	Email Address
Stephen Brickman	Headway Engineering	226 243 6614	Stephen.brickman@headwayeng.ca
Adam Hall	Headway Engineering	226 243 6614	adam.hall@headwayeng.ca
John Kuntze	Wilmot & Wellesley Drain Super		
Ken & Cathy Heintz			
Kenneth Turner	Region of Waterloo	519-584-5616	KTurner@regionofwaterloo.ca
Jeff Cressman	Roadside Farm		
Dave Cressman	"		
Eva Cressman			
Karyn D'Amico			
Doreen Schreiner			
Walter Kuylenstierna			
Ed Schneider			
Garth Noecker	Dr. Supt. - Wellesley		
John Kuntze	Dr Supt Wilmot		
CHRIS GAURON			
& KEITH TURNER			

Exhibit “**Q**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

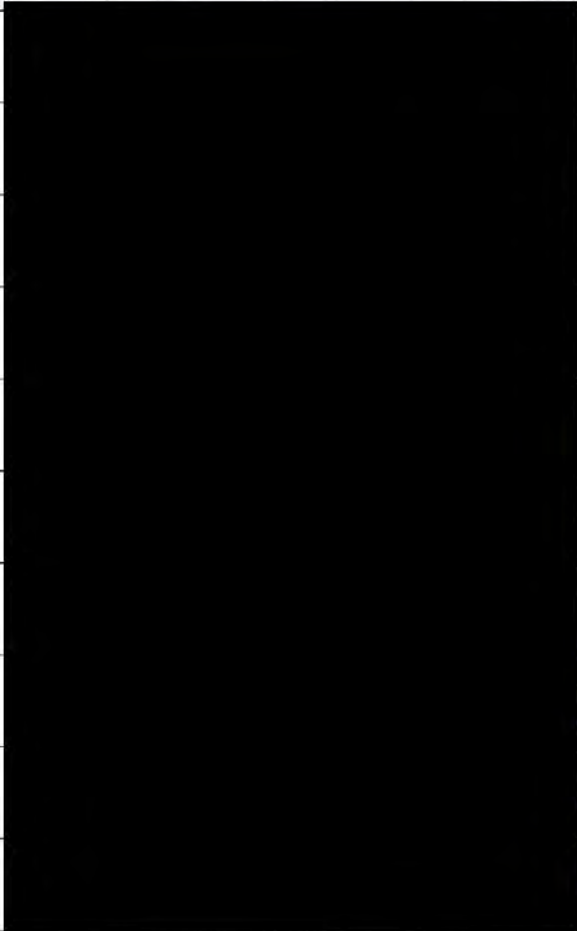
Petition Against Jananna Municipal Drain

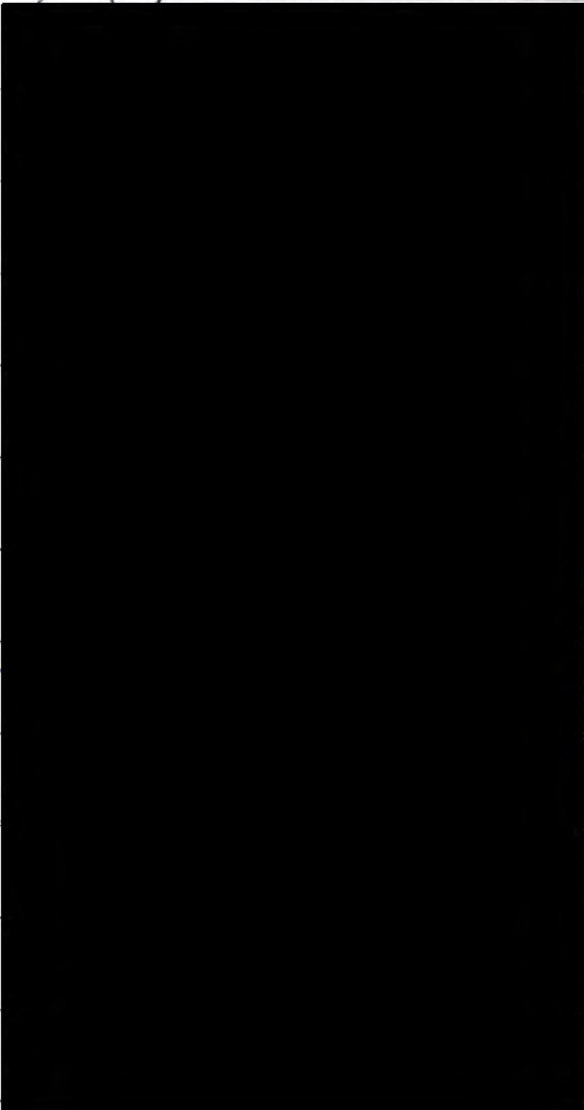
The undersigned shows collective opposition of the Jananna Municipal Drain project based on the following...

We do not see the need for such a project

We do not see the benefit individually or collectively of this project

We do not want to participate in the cost involved with this project

Printed Name	Signature	Address	Date
Ken Heintz		2332 Berletts Rd	Jan 21/23
Cathy Heintz		2332 Berletts Rd	Jan 21/23
Peter Schneider		2246 Berletts Rd	Jan 21/23
Dagmar Schneider		2246 Berletts Rd	Jan 21/23
Oleg Borisso		2098 Berletts Rd	Jan 21/23
Cory Kittel		1010 Gerber Rd	Jan 21/23
Ladislav Bauer		1181 Gerber Rd.	Jan 21/23
Kirby Kittel		1010 Gerber Rd.	Jan 21/23
Elena Borissou		2098 Berletts	Jan 24/23
Jeff Cressman		1288 Gerber	Jan 26/23

Printed Name	Signature	Address	Date
JUSTIN MILLER		1021 GERBER RD. ST. AGATHA, ON NOB 2LO	01/30/23
Natalee Miller		1021 Gerber Rd. St. Agatha, ON NOB 2LO	01/30/23
PETER WURTELE		2206 Berletts Rd St Agatha ON NOB 2LO	01/31/23
BARBARA WURTELE		2206 Berletts Rd St Agatha ON NOB 2LO	01/31/23
JEFF FURTADO		1333 Gerber Rd Wellesley ON	02/01/23
Paige Furtado		1333 Gerber Rd Wellesley ON	02/01/23
BRYAN MURSE		2268 BERLETT'S RD	02/03/23
Nancy MURSE		2268 Berlett's Rd St. Agatha NOB 2LO	02/03/23
STERRI HOMANCHUK		2170 BERLETT'S RD	02/04/23
DAVE HOMANCHUK		2170 BERLETT'S RD	02/04/23
DAVID CRESSMAN		1532 Gerber Rd Wellesley	02/06/23
EVA CRESSMAN		1532 Gerber Rd Wellesley	02/06/23

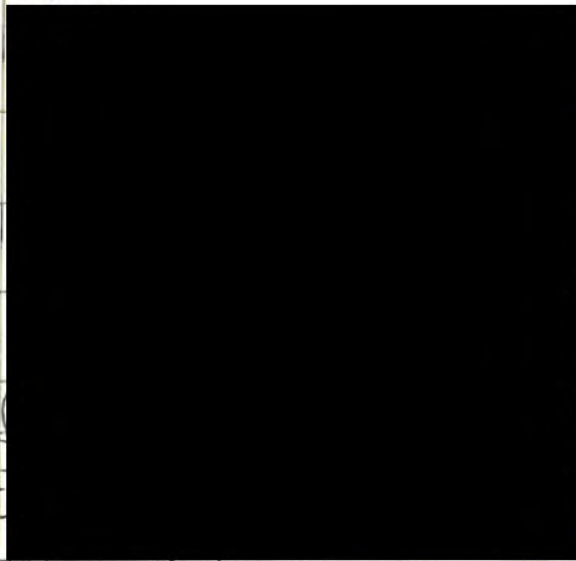
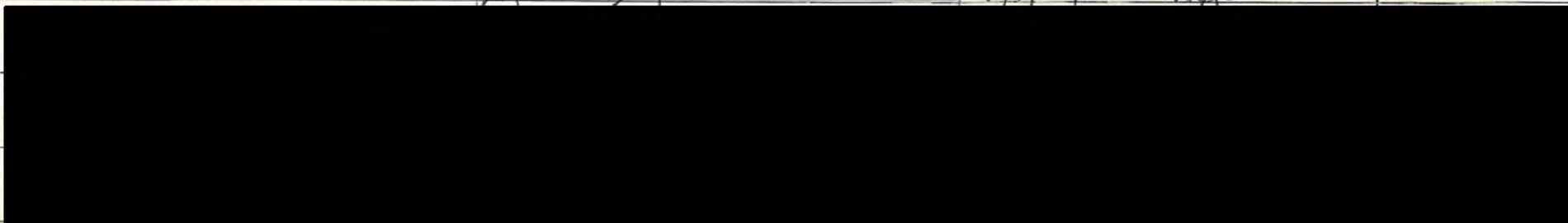
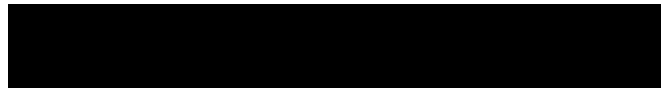
Printed Name	Signature	Address	Date
David Marshall		1269 Gerber Rd Wellesley Wellesley on	02/03/23
Bib Sanderson		1269 Gerber Rd Wellesley	02/03/23
Robert Jantzi		1805 Gerber RD Wellesley	05/08/23
Rome Jantzi		1805 Gerber Rd. Wellesley	05/08/23
R McEORMAN		1171 Gerber Rd	06/15/23
Rosemary Kettel-McCormick		1171 Gerber Rd RR#1 ST. Agatha	June 15, 2023
			
Three neighbour names are removed due to their address falling outside the assessment area or defined perimeter of the watershed community in this case			

Exhibit “**R**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.



Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023

April 28, 2023

Prepared for:



Kitchener, Ontario
April 28, 2023

To the Mayor and Members of Council:

Re: Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023
Township of Wilmot
Our Reference No. WLMT-002

Headway Engineering is pleased to provide its report for the **Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023** in the Township of Wilmot.

The preparation of this report was authorized by resolutions of the Council of the Township of Wilmot on July 12, 2021, per Section 4(1) of the Drainage Act.

The primary objective of this report is to establish a new Municipal Drain designed to today's standards of drainage for an area requiring drainage. The report recommends the construction of a new closed municipal drain from two locations on the North Part of Lot 10, Concession 3, Block B and extending downstream to its outlet into the Koch-Leis Drain and the Bamberg Creek. Improvements are required to portions of the Koch-Leis Drain, and the Bamberg Creek.

A summary of the assessments for this project are as follows:

Municipal Lands	\$32,649
Privately Owned Agricultural – Grantable	\$430,251
Total Estimated Assessments	\$462,900

Yours truly,

Stephen Brickman, P.Eng.
Project Engineer and Manager

Adam Hall
Project Coordinator
HEADWAY ENGINEERING
SB/





CONTENTS

1.0	INTRODUCTION AND LOCATION	1
2.0	PROJECT AUTHORIZATION	1
3.0	DRAINAGE HISTORY	1
4.0	PUBLIC MEETINGS AND ENGAGEMENTS.....	2
5.0	FINDINGS	3
6.0	DESIGN CONSIDERATIONS	4
7.0	ENVIRONMENTAL CONSIDERATIONS AND PERMITTING	5
8.0	RECOMMENDATIONS.....	5
9.0	SUMMARY OF PROPOSED WORKS	6
10.0	WORKING AREA AND ACCESS.....	6
11.0	SCHEDULES	7
12.0	ALLOWANCES.....	7
13.0	ESTIMATED CONSTRUCTION COSTS	8
14.0	SUMMARY OF ESTIMATED PROJECT COSTS	9
15.0	ASSESSMENT	9
16.0	GRANT ELIGIBILITY.....	10
17.0	MAINTENANCE	10

SCHEDULES

SCHEDULE A – ALLOWANCES

SCHEDULE B – ESTIMATED CONSTRUCTION COSTS

SCHEDULE C – ASSESSMENT FOR CONSTRUCTION

SCHEDULE D – ASSESSMENT FOR FUTURE MAINTENANCE

SPECIFICATIONS FOR THE CONSTRUCTION OF MUNICIPAL DRAINAGE WORKS

1.0 INTRODUCTION AND LOCATION

The Council of the Township of Wilmot has appointed Headway Engineering to investigate a petition for a new municipal drainage works. The project services parts of Lots 9 to 12 in Concessions 3 Block B, in the Township of Wilmot, and parts of Lots 6 to 8 in Concession 2, Eastern Division, and part of Lot 8, Concession 3, Eastern Division in the Township of Wellesley.

The liable drainage area comprises of approximately 221 hectares, and land uses within the watershed include agriculture, bush lands, and roads.

The attached Plans, Profiles and Details; Drawing Numbers 1 to 6, show and describe in detail the location and extent of the work to be completed and the lands which are affected.

2.0 PROJECT AUTHORIZATION

Authority to prepare this report was obtained by resolutions of the Council of the Township of Wilmot at its July 12, 2021 Council Meeting to appoint Headway Engineering to prepare an Engineer's Report under Section 4 of the Drainage Act. The area requiring drainage is part of Lot 10, Concession 3, Block B. The petition is valid in accordance with Section 4(1)(a) of the Drainage Act.

3.0 MUNICIPAL DRAINAGE HISTORY

3.1 Koch-Leis Drain (1950)

The Koch-Leis Drain was originally constructed under the authority of a report prepared by Graham Reid & Associates, dated November 15, 1950. This 1950 report provided for the construction of the entire Koch-Leis Drain as an open ditch.

The following table summarizes the maintenance activities on the Koch-Leis Drain, per Township records:

Year	Location	Description
1985 (Summer)	Gerber Road, downstream to Bamberg Creek	Ditch cleanout
2010 (Fall)	Bamberg Creek	Beaver, and beaver dam removals
2012 (Spring)	Sta. 0+000 to Sta. 0+374 (approx.)	Ditch cleanout
2018 (Spring)	Sta. 0+000 to Sta. 0+620 (approx.), and spot locations upstream	Ditch cleanout and brushing, spot cleanouts.
2021 (Fall)	Sta. 0+000 to Sta. 0+374 (approx.)	Ditch cleanout and brushing



4.0 PUBLIC MEETINGS AND ENGAGEMENTS

4.1 On-Site Meeting

Per Section 9(1) of the Drainage Act, an on-site meeting was held on September 22, 2021 to address the Section 4 Petition. Persons in attendance were:

Stephen Brickman, P.Eng.	Headway Engineering
Adam Hall	Headway Engineering
John Kuntze, P.Eng.	Township of Wilmot, Drainage Superintendent
Josh Graham, C.E.T.	Region of Waterloo
Ken Renner	Region of Waterloo

Landowners included:

Lucy Gawron	Walter Krupnik	Wayne & Irene Schneider
Ron McCormick	Christine Gawron	

4.2 Public Information Meeting No. 1

A Public Information Meeting was held on September 29, 2022. Persons in attendance were:

Stephen Brickman, P.Eng.	Headway Engineering
Adam Hall	Headway Engineering
John Kuntze, P.Eng.	Township of Wilmot, Drainage Superintendent

Landowners included:

Cory Kittel	Wayne & Irene Schneider	Walter Krupnik
Lucy Gawron	Ken & Cathy Heintz	Justin Miller
Chris & Keith Turner	Ron McCormick	Theresa Gawron (Virtually)

The information supplied included details on the proposed construction of two pipe drainage systems identified as the East and West Branches, and improvements to Bamberg Creek.

This meeting provided a review of the design of the proposed drainage system, the estimated costs of the project, and the proposed assessments.

Subsequent to the meeting, improvements were requested to the lower end of the Koch-Leis Drain. Given the frequent need for cleanouts (three cleanouts in 10 years at the lower end), and the newly proposed improvements to Bamberg Creek, additional grade is available to the Koch-Leis Drain.

4.3 Public Information Meeting No. 2 (Koch-Leis Drain Improvements)

A second Public Information Meeting was held on November 24, 2022. Persons in attendance were:

Stephen Brickman, P.Eng.	Headway Engineering
Adam Hall	Headway Engineering
John Kuntze, P.Eng.	Township of Wilmot, Drainage Superintendent
Garth Noecker	Township of Wellesley, Drainage Superintendent
Ken Renner	Region of Waterloo

Landowners included:

Lucy Gawron	Wayne & Irene Schneider	Walter Krupnik
Jeff Cressman	Dave and Eva Cressman	Ken & Cathy Heintz
Chris Gawron	Keith Turner	Peter Schneider



The information supplied essentially included the same details as presented at the Public Information Meeting No. 1, but with improved grade at the lower end of the Koch-Leis Drain.

This meeting provided a review of the design of the proposed drainage system, the estimated costs of the project, and the proposed assessments.

5.0 FINDINGS

Based on the information collected during field investigations, surveys, public engagements, and review of documentation, the following summarizes Headway Engineering's findings:

5.1 General Findings:

- The watershed was established through the analysis of tile drainage maps, previous engineers' reports for surrounding systems, field investigations, surveys, and data analysis of the Southwestern Ontario Orthophotographic Project (SWOOP). The drainage area liable for assessment comprises of approximately 221 hectares.
- Land uses within the drainage area are as follows:
 - Agricultural: 180.4 hectares (82%)
 - Bush: 37.5 hectares (17%)
 - Roads: 3.1 hectares (1%)
- The Ontario Ministry of Agriculture, Food and Rural Affairs' Agricultural Information Atlas describes the soil types within the watershed and along the route of the drain as follows:
 - Silt Loam (approximately 24%)
 - Silty Clay Loam (approximately 31%)
 - Sandy Loam (approximately 45%).
- Lands north of Gerber Road, and immediately south of Gerber Road are noted to be sandy with above average properties for infiltration.

5.2 Existing Drainage System:

- The Koch-Leis Drain has a very flat grade for approximately 300m at its outlet. The previous drainage report indicates that the Koch-Leis Drain was constructed with more grade.
- The outlet for the entire system is Bamberg Creek.
- Bamberg Creek shows signs of artificial improvements in its history, such as straightening, and additional depth at the time the Koch-Leis Drain was originally constructed (1950).

5.3 Outlet:

- The outlet for the system is Bamberg Creek approaching Berlett's Road, where the natural watercourse begins to take on more grade.



5.4 Other noted issues:

- The north part of Lot 10, Concession 3, Block B has been recently systematically tiled toward the Koch-Leis Drain. The north side of the property is not systematically tiled, as conditions improve for drainage.
- Eastern portions of Lot 10, Concession 3, Block B have been tiled toward the Koch-Leis Drain, where those lands would naturally drain south toward Bamberg Creek. The south-east portion of the property could not be drained toward the Koch-Leis Drain, and requires a legal outlet.
- Surface flows along the upper alignment of the East Branch and West Branch are causing reduced usability of the surrounding lands.
- Areas within the drainage area are likely to be tiled in the future.
- Tile outlets into Bamberg Creek do not have sufficient depth for today's standards of drainage.
- Bamberg Creek is prone to beaver activity. The municipality currently has limited ability to complete any maintenance on Bamberg Creek.
- Current topographic data indicates that portions of the Koch-Leis Drain watershed, as noted in the 1950 report, are incorrect.

5.5 Environmental Condition:

- Portions of the proposed drainage system pass through components of the Provincially Significant Sunfish Lake Laurel Creek Wetland Complex.

6.0 DESIGN CONSIDERATIONS

The proposed tile drainage system is sized using the Drainage Coefficient method contained in the OMAFRA Publication 29 – 'Drainage Guide for Ontario'. The Drainage Coefficient describes a depth of water to be conveyed by the drainage works per a 24-hour period and is expressed in millimeters per 24 hours. The drainage coefficient design standard used for the works proposed in this report is 25mm per 24-hour period.

The tile drains are to be installed along an alignment which approximately follows the natural flow paths.

Headway Engineering investigated a design option which relied on the use of the existing private drain for the lower portion of the West Branch as a municipal drain. This design option resulted in minimal cost savings while providing for smaller infrastructure. A single pipe system sized to today's standards is the most feasible option.

Pipe materials were selected based on location and intended land uses adjacent to the drainage system.

Surface water inlets have been placed purposefully to receive surface flow and allow for subsurface connections. Likewise, the elevation of the pipe systems are designed to provide for subsurface tile connections at, and between surface water inlets.



Works in Bamberg Creek have been designed to provide for sufficient outlet for the Koch-Leis Drain, and the East Branch. The proposed works also provide opportunity for improved tile drainage for workable areas adjacent to, or near works proposed in Bamberg Creek.

7.0 ENVIRONMENTAL CONSIDERATIONS AND PERMITTING

7.1 Department of Fisheries and Oceans (DFO)

The work proposed under this report consists of the new construction of a closed drainage system, and improvements to existing open watercourses. Headway Engineering submitted a Request for Review by DFO on April 12, 2022. DFO contacted Headway Engineering for additional discussion, and upon DFO's completion of their review, DFO provided the following correspondence, dated June 27, 2022:

"... the [Fish and Fish Habitat Protection] Program is of the view that your proposal will not require an authorization under the Fisheries Act, or the Species at Risk Act."

7.2 Ministry of Natural Resources and Forestry (MNRF) and the Ministry of Environment, Conservation and Parks (MECP)

Headway Engineering completed a review of the Natural Heritage Information Centre mapping for Species at Risk in Ontario. Provincial Species at Risk requiring special consideration were not found in the working area.

In response to a public inquiry, the MECP reached out to Headway Engineering to request information, mainly relating to Eastern Meadowlark. Special provisions to locate (if present) the species within the work area have been prepared by Headway Engineering and approved by the MECP.

7.3 Grand River Conservation Authority (GRCA)

The GRCA provided correspondence dated October 21, 2021, which states the following:

"... our [GRCA] comments on works under the Drainage Act are advisory, and will not require a GRCA permit."

The correspondence also states the following:

"... we [GRCA] wish to stay involved as the study process moves forward."

The GRCA has been included on the circulation list for this report and has been notified of all public engagements. Additionally, Headway Engineering has forwarded design drawings to the GRCA on January 20, 2023, for comment, and held a virtual meeting with GRCA staff on February 3, 2023.

8.0 RECOMMENDATIONS

Headway Engineering recommends the following:

- A new municipal drainage system be installed from the outlet into Bamberg Creek in Lot 9, Concession 3, Block B, and extending upstream to the property line separating Lots 9 and 10, in the same concession. This Branch shall be known as the East Branch of the Jannana Municipal Drain.



- A new municipal drainage system be installed from the outlet into the Koch-Leis Drain in Lot 10, Concession 3, Block B, and extending upstream to the south road limit of Gerber Road, in the same concession. This Branch shall be known as the West Branch of the Jananna Municipal Drain.
- Improvements be made to the Koch-Leis Drain from its outlet into Bamberg Creek in Lot 10, Concession 3, Block B and extending upstream to the outlet of the West Branch.
- Improvements be made to Bamberg Creek from the outlet of the East Branch, and extending downstream to a sufficient outlet on the Schneider property (Roll No. 9-153).
- The proposed tile drainage system includes the installation of approximately 1,358m of 200mm to 450mm diameter pipes and is designed to convey flows at a design standard of 25mm per 24-hour period. The proposed improvements to the open channels consists of approximately 1,201m of cleanout.
- The proposed drainage system shall be constructed at an elevation adequate to drain the surrounding subsurface lands.
- This improved drainage system shall be known as the **Bamberg Creek, Jananna and Koch-Leis Municipal Drains 2023**. The Jananna Municipal Drain shall include the **East Branch**, and the **West Branch**. The Koch-Leis Drain will continue with the same identification.
- The watershed for the Koch-Leis Drain be updated per the most current topographic information, and the maintenance assessment be altered accordingly.
- Headway Engineering also recommends that the watersheds of the surrounding municipal drains be updated when those drainage systems are revisited in the future.

9.0 SUMMARY OF PROPOSED WORKS

The proposed work consists of:

1. The installation of approximately 1,358m of 200mm to 450mm diameter concrete field tile and HDPE pipe.
2. The installation of four concrete catch basins and one junction box, and
3. The improvement of approximately 1,201m of open channels.

10.0 WORKING AREA AND ACCESS

Access to the working area shall be as designated on the plans. In locations where access is not shown on the plans then access shall be designated by the Landowners.

10.1 Closed Drains (East and West Branches)

The working area shall be an average width of 25m for construction purposes, and an average width of 10m for maintenance purposes along the alignment of the proposed drain.

10.2 Open Drains (Bamberg Creek and Koch-Leis Municipal Drains)

The working area shall be an average width of 10m for construction and maintenance purposes along the working side of the open drain.



11.0 SCHEDULES

Four schedules are attached and form part of this report.

11.1 Schedule A – Schedule of Allowances

Following Sections 29, 30, and 33 of the Drainage Act, allowances are provided to Landowners for Right-of-Way, Damages to Lands and Crops and Loss of Access. Schedule A contains a table of the applicable allowances to Landowners.

11.2 Schedule B – Schedule of Estimated Construction Costs

An itemized cost estimate of the proposed construction work is included in detail in Schedule B.

11.3 Schedule C – Schedule of Assessment for Construction

Schedule C provides details of the distribution of the total estimated costs of the construction of the municipal drain.

11.4 Schedule D – Schedule of Assessment for Maintenance

Schedule D provides details of the distribution of future maintenance costs for the municipal drain. Maintenance assessments are expressed as a percentage of the total maintenance. Lands located upstream of the maintenance shall be determined by the Drainage Superintendent and assessed according to this schedule.

12.0 ALLOWANCES

Per Sections 29, 30, and 33 of the Drainage Act, Allowances payable to Landowners are described below.

12.1 Allowances for Right-of-Way (Section 29)

The Right-of-Way allowance compensates the lands for the right to enter onto the land at various times for the purpose of inspecting the drainage system and conducting maintenance activities. The land value used for the Right-of-Way calculation is adjusted for closed drainage systems to account for the continued use of the land after the construction.

The values used for calculating allowances for Right-of-Way are as follows:

Land Use	Land Value	Adjustment Factor for Drainage Act Right-of- Way	Adjusted Land Value for Drainage Act Right- of-Way Allowance
Agricultural (Maintenance Corridor)	\$60,000/Ha	25%	\$15,000/Ha
Wooded (Maintenance Corridor)	\$15,000/Ha	25%	\$3,750/Ha
Watercourse (Land Taken)	\$15,000/Ha	100%	\$15,000/Ha



12.2 Allowances for Damages to Lands and Crops (Section 30)

Allowances for Damages to Lands and Crops under Section 30 of the Drainage Act, are primarily calculated to compensate landowners for crop losses, and land damages due to the construction and operation of the drain, including access to the working area.

Area values used for calculating allowances for Damages are as follows:

Land Use	Damage Value
Agricultural	\$6,000/Ha
Wooded	\$3,000/Ha

12.1 Allowances for Loss of Access (Section 33)

An allowance may be provided to a Landowner if the establishment of a municipal drain causes the loss of access to a portion of the property. A Loss of Access allowance is calculated as the lesser of the following calculations:

- The cost of constructing a suitable bridge or crossing
- The value of the land which is severed from the rest of the property by the establishment of a municipal drain.

Five Loss of Access allowances are provided in this report, all of which resulted with the value of the land severed as the lesser of the above calculations.

Total Allowances, under Sections 29, 30, and 33 of the Drainage Act are \$167,400. Allowances payable to Landowners are shown in Schedule A.

Allowances will be deducted from the total assessments in accordance with Section 62(3) of the Drainage Act.

13.0 ESTIMATED CONSTRUCTION COSTS

Headway Engineering has made an estimate of the cost of the proposed construction work. A detailed description of the estimated construction costs can be found in Schedule B of this report.

Part A – Bamberg Creek Drain	\$ 44,400
Part B – Jananna – East Branch	\$ 60,300
Part C – Jananna – West Branch	\$ 50,100
Part D – Koch-Leis Drain	\$ 9,800
Part E – Provisional Items	\$ 16,200
Total Estimated Construction Costs	\$ 180,800



14.0 SUMMARY OF ESTIMATED PROJECT COSTS

The total estimated project costs are as follows:

Allowances under Sections 29, 30, 33 of the Drainage Act (Refer to Schedule A)	\$ 167,400
Total Estimated Construction Costs (Refer to Schedule B)	\$ 180,800
Public engagements, survey, design and drafting, preparation of preliminary cost estimates and assessments, preparation of drainage report, consideration of report	\$ 70,300
Agency Consultations and Approvals	\$ 1,200
Tendering, supervision, and inspection of construction, as-recorded drawing preparation	\$ 22,900
Contingencies, Interest and net H.S.T.	\$ 20,300
TOTAL ESTIMATED PROJECT COSTS	
BAMBERG CREEK, JANANNA, AND KOCH-LEIS MUNICIPAL DRAINS 2023	\$ 462,900

The estimated cost of the work in the Township of Wilmot is \$462,900.

The above costs are estimates only. The final costs of construction, engineering and administration cannot be determined until the project is completed.

The above cost estimate does not include costs associated with defending the drainage report should appeals be filed with the Court of Revision, Drainage Tribunal and/or Drainage Referee. Should additional costs be incurred, unless otherwise directed, the additional costs would be distributed in a pro-rata fashion over the assessments contained in Schedule C and as may be varied under the Drainage Act.

15.0 ASSESSMENT

Headway Engineering assesses the cost of this work against the Lands and Roads as shown in Schedule C - Assessment for Construction.

Assessments were determined using the principles included in the 'Drainage Assessment Revisited' paper prepared by E.P. Dries and H.H. Todgham. These principals of assessment are recognized to be fair and equitable for determining cost distributions among those affected.

15.1 Benefit (Section 22)

Benefit assessment is applied to those properties receiving a benefit as defined in Section 1 of the Drainage Act which is extracted below:

***Benefit** means the advantages to any lands, roads, buildings or other structures from the construction, improvement, repair, or maintenance of a drainage works such as will result in a higher market value or increased crop production or improved appearance or better control of surface or sub-surface water, or any other advantages relating to the betterment of lands, roads, buildings or other structures.*



Typically, properties which have direct, or near direct access to the proposed drain receive Benefit as defined above.

15.2 Outlet Liability (Section 23)

Outlet Liability is distributed to all properties within the liable watershed area on an adjusted area basis. The areas are adjusted to accurately reflect equivalent run-off rates relative to other lands and roads within the watershed. Due to development, roads have been assessed higher Outlet Liability rates relative to agricultural lands.

15.3 Special Benefit (Section 24)

15.3.1 Assessment of Costs for Crossing Considerations

The Special Benefit instrument of assessment is used to separate the benefit portion of the crossing considerations from the remaining costs of the project. Crossing considerations include the Loss of Access allowances.

16.0 GRANT ELIGIBILITY

The Province provides grants toward assessments to eligible properties for drainage improvements which meet specified criteria. The provision of these grants for activities under the Drainage Act is known as the *Agricultural Drainage Infrastructure Program (ADIP)*.

A grant may be available for assessments to privately owned parcels of land which are used for agricultural purposes and eligible for the Farm Property Class Tax rate. Section 88 of the Drainage Act directs the Municipality to make application for this grant upon certification of completion. The Municipality will then deduct the grant from the assessments.

16.1 Allowance for Loss of Access

Following policy number 2.4 e) of the ADIP policies, no grant will be paid on an allowance for loss of access except when the cost of providing a crossing exceeds the value of the land losing access. As noted under Heading 12.1 of this report, all Loss of Access allowances were calculated based on the value of the land losing access. The Loss of Access allowances qualify for ADIP grants.

17.0 MAINTENANCE

After completion, the Bamberg Creek, Jananna, and Koch-Leis Municipal Drains shall be maintained by the Township of Wilmot and the Township of Wellesley for those portions of the drainage systems which are located in their respective municipalities, at the expense of all the lands and roads assessed in accordance with the attached Schedule D – Assessment for Maintenance, and in the same relative proportions until such time as the assessment is changed under the Drainage Act, except for the portions of the drainage works on municipal right-of-ways. These portions shall be maintained at the expense of the road authority having jurisdiction over the road.



Schedule A

Allowances

Schedule of Allowances

Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023

Bamberg Creek Drain	Property Details				Drainage Act Allowances			
	Part			Roll	Right of Way	Damages	Loss of Access	
	Lot	Concession	Landowner	Number	(Sec. 29)	(Sec. 30)	(Sec. 33)	Total Allowances
	9	3 Block B	Oleg & Elena Borissova	9-151	\$ 1,020.00	\$ 1,020.00	\$ 1,000.00	\$ 3,040.00
	9	3 Block B	Cory & Kirby Kittel	9-165	\$ 270.00	\$ 270.00		\$ 540.00
	10	3 Block B	Peter & Dagmar Schneider	9-153	\$ 2,310.00	\$ 1,720.00		\$ 4,030.00
	10	3 Block B	Peter & Barbara Wurtele	9-153-01	\$ 1,230.00	\$ 1,080.00	\$ 34,800.00	\$ 37,110.00
	10	3 Block B	David & Sherri Homanchuk	9-154	\$ 3,420.00	\$ 3,190.00	\$ 39,600.00	\$ 46,210.00
	Total Allowances							
	Bamberg Creek Drain				\$ 8,250.00	\$ 7,280.00	\$ 75,400.00	\$ 90,930.00

Jananna - East Branch	Property Details				Drainage Act Allowances			
	Part			Roll	Right of Way	Damages	Loss of Access	
	Lot	Concession	Landowner	Number	(Sec. 29)	(Sec. 30)	(Sec. 33)	Total Allowances
	9	3 Block B	Cory & Kirby Kittel	9-165	\$ 3,270.00	\$ 3,770.00		\$ 7,040.00
	10	3 Block B	Jananna Corp.	9-164	\$ 5,750.00	\$ 5,750.00		\$ 11,500.00
	Total Allowances							
	Jananna - East Branch				\$ 9,020.00	\$ 9,520.00	\$ -	\$ 18,540.00

Jananna - West Branch	Property Details				Drainage Act Allowances			
	Part			Roll	Right of Way	Damages	Loss of Access	
	Lot	Concession	Landowner	Number	(Sec. 29)	(Sec. 30)	(Sec. 33)	Total Allowances
	10	3 Block B	Jananna Corp.	9-164	\$ 11,400.00	\$ 11,400.00		\$ 22,800.00
	Total Allowances							
	Jananna - West Branch				\$ 11,400.00	\$ 11,400.00	\$ -	\$ 22,800.00

Koch-Leis Drain	Property Details				Drainage Act Allowances			
	Part			Roll	Right of Way	Damages	Loss of Access	
	Lot	Concession	Landowner	Number	(Sec. 29)	(Sec. 30)	(Sec. 33)	Total Allowances
	10	3 Block B	Peter & Dagmar Schneider	9-153	\$ 2,810.00	\$ 530.00	\$ 8,700.00	\$ 12,040.00
	10	3 Block B	David & Sherri Homanchuk	9-154	\$ 2,810.00	\$ 1,120.00		\$ 3,930.00
	10	3 Block B	Jananna Corp.	9-164	\$ 2,660.00	\$ -	\$ 16,500.00	\$ 19,160.00
	Total Allowances Koch-Leis Drain				\$ 8,280.00	\$ 1,650.00	\$ 25,200.00	\$ 35,130.00
					Right of Way (Sec. 29)	Damages (Sec. 30)	Loss of Access (Sec. 33)	Total Allowances
	Total Allowances Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023				\$ 36,950.00	\$ 29,850.00	\$ 100,600.00	\$ 167,400.00



Schedule B

Estimated Construction Costs

Schedule of Estimated Construction Costs

We have made an estimate of the cost of the proposed work which is outlined in detail as follows:

Part A - Bamberg Creek Drain

	Description	Estimated Quantity	\$ /Unit		Total
1)	Clearing, brushing and mulching	I.s.			\$ 20,000.00
2)	Open ditch excavation (approx. 400m ³) including cleanout through concrete bridge at Sta. 0+539	650 m	\$ 20.00	\$	13,000.00
3)	Levelling of excavated material	650 m	\$ 6.00	\$	3,900.00
4)	Seeding of disturbed side slopes	2000 m2	\$ 1.25	\$	2,500.00
5)	Supply and place rip-rap erosion protection at Sta. 0+000 to transition Bamberg Creek existing grade to proposed streambed (approx. 10m length)	I.s.		\$	5,000.00

Total Estimated Construction Costs

Part A - Bamberg Creek Drain **\$ 44,400.00**

Part B - Jananna - East Branch

	Description	Estimated Quantity	\$ /Unit		Total
1)	Supply 200mm diameter concrete field tile	288 m	\$ 20.00	\$	5,760.00
	Installation (Sta. 0+310 to Sta. 0+598)	288 m	\$ 32.00	\$	9,216.00
2)	Supply 400mm diameter concrete field tile	304 m	\$ 35.00	\$	10,640.00
	Installation (Sta. 0+006 to Sta. 0+310)	304 m	\$ 36.00	\$	10,944.00
3)	Supply 450mm diameter HDPE outlet pipe (CSA B182.8) complete with rodent grate	6 m	\$ 120.00	\$	720.00

	Description	Estimated Quantity	\$/Unit	Total
4)	Installation of 450mm diameter outlet pipe complete with quarry stone rip-rap protection and geotextile filter material (50m ²)	I.s.		\$ 9,020.00
5)	Supply and install 600mm X 600mm concrete catchbasin at Sta. 0+598 (inline type)	1 ea.	\$ 2,500.00	\$ 2,500.00
6)	Supply and install 600mm X 600mm concrete catchbasin offset 21m east of Sta. 0+270 including connection to the main drain with 300mm diameter pipe	1 ea.	\$ 4,500.00	\$ 4,500.00
7)	Supply and install 900mm X 1200mm concrete junction box at Sta. 0+310 (inline type)	1 ea.	\$ 3,000.00	\$ 3,000.00
6)	Supply and install 900mm X 1200mm concrete ditch inlet catch basin at Sta. 0+218 (inline type)	1 ea.	\$ 4,000.00	\$ 4,000.00

Total Estimated Construction Costs

Part B - Jananna - East Branch

\$ 60,300.00

Part C - Jananna - West Branch

	Description	Estimated Quantity	\$/Unit	Total
1)	Supply 200mm diameter concrete field tile	310 m	\$ 20.00	\$ 6,200.00
	Installation (Sta. 0+450 to Sta. 0+760)	310 m	\$ 32.00	\$ 9,920.00
2)	Supply 250mm diameter concrete field tile	444 m	\$ 25.00	\$ 11,100.00
	Installation (Sta. 0+006 to Sta. 0+450)	444 m	\$ 34.00	\$ 15,096.00
3)	Supply 250mm diameter HDPE outlet pipe (CSA B182.8) complete with rodent grate	6 m	\$ 120.00	\$ 720.00
4)	Installation of 250mm diameter outlet pipe complete with quarry stone rip-rap protection and geotextile filter material (30m ²)	I.s.		\$ 7,064.00

Total Estimated Construction Costs

Part C - Jananna - West Branch

\$ 50,100.00

Part D - Koch-Leis Drain

	Description	Estimated Quantity	\$/Unit	Total
1)	Clearing, brushing and mulching	I.s.		\$ 2,025.00
2)	Open ditch cleanout	275 m	\$ 20.00	\$ 5,500.00
3)	Levelling of excavated material	275 m	\$ 6.00	\$ 1,650.00
4)	Seeding of disturbed side slopes	500 m2	\$ 1.25	\$ 625.00

Total Estimated Construction Costs

Part D - Koch-Leis Drain **\$ 9,800.00**

Part E - Provisional Items

A Provisional Item is an item that may or may not be required as a part of the Contract. The decision as to whether a Provisional Item will form part of the Contract will be at the discretion of the engineer at time of construction. Payment for Provisional Items will only be made for work authorized in writing (text or email) by the Engineer. Payment for work performed under a Provisional Item shall be based on the Unit Price bid in the Scope of Work below.

- 1) Additional costs associated with installation of tile drain on 19mm diameter crushed clear stone bedding. This includes the supply and placement of all stone, and additional labour and equipment required for installation in accordance with the Typical Pipe Installation on wrapped Stone Bedding

Description	Estimated Quantity	\$/Unit	Total
250mm diameter pipe	75 m	\$ 40.00	\$ 3,000.00
400mm diameter pipe	150 m	\$ 50.00	\$ 7,500.00

- 2) Additional costs associated with installation of tile drain on 19mm diameter crushed clear stone bedding. This includes the supply and placement of all stone, and additional labour and equipment required for installation in accordance with the Typical Pipe Installation on Stone Bedding Detail (un-wrapped bedding).

Description	Estimated Quantity	\$/Unit	Total
250mm diameter pipe	25 m	\$ 30.00	\$ 750.00
400mm diameter pipe	50 m	\$ 40.00	\$ 2,000.00

Description	Estimated Quantity	\$/Unit	Total
3) Wheel machine lift outs due to stony conditions	3 ea.	\$ 300.00	\$ 900.00

4) Tile connections:

Description	Estimated Quantity*	\$/Unit	Total
100mm diameter	10 ea.	\$ 90.00	\$ 900.00
150mm diameter	5 ea.	\$ 100.00	\$ 500.00
200mm diameter	5 ea.	\$ 130.00	\$ 650.00

*The Contractor shall be paid for the actual quantity of tile connections at the above fixed unit prices.

Total Estimated Construction Costs

Part E - Provisional Items

\$ 16,200.00

Summary of Estimated Construction Costs

Part A - Bamberg Creek Drain	\$ 44,400.00
Part B - Jananna - East Branch	\$ 60,300.00
Part C - Jananna - West Branch	\$ 50,100.00
Part D - Koch-Leis Drain	\$ 9,800.00
Part E - Provisional Items	\$ 16,200.00

Total Estimated Construction Costs

\$ 180,800.00

Total Estimated Materials	\$ 35,140.00
Total Estimated Labour and Equipment	\$ 145,660.00

Total Estimated Construction Costs

Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023

\$ 180,800.00



Schedule C

Assessment for Construction

Schedule of Assessment for Construction
Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023

Bamberg Creek Drain	Property Details					Drainage Act Instruments of Assessment				For Information		
	Part Lot	Concession	Landowner	Roll Number	Approx. Ha. Affected	Benefit (Sec. 22)	Outlet Liability (Sec. 23)	Special Benefit (Sec. 24)	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
	Township of Wilmot											
	9	3 Block B	Oleg & Elena Borissova	9-151	8.54	\$ 5,503.00	\$ 2,354.00		\$ 7,857.00	\$ 2,619.00	\$ 3,040.00	\$ 2,198.00
	9	3 Block B	Cory & Kirby Kittel	9-165	13.84	\$ 18,241.00	\$ 4,374.00		\$ 22,615.00	\$ 7,538.00	\$ 540.00	\$ 14,537.00
	10	3 Block B	Peter & Dagmar Schneider	9-153	9.3	\$ 12,500.00	\$ 1,933.00		\$ 14,433.00	\$ 4,811.00	\$ 4,030.00	\$ 5,592.00
	10	3 Block B	Peter & Barbara Wurtele	9-153-01	0.89	\$ 12,811.00	\$ 182.00	\$ 32,020.00	\$ 45,013.00	\$ 15,004.00	\$ 37,110.00	-\$ (7,101.00)
	10	3 Block B	David & Sherri Homanchuk	9-154	3.7	\$ 26,336.00	\$ 962.00	\$ 36,440.00	\$ 63,738.00	\$ 21,246.00	\$ 46,210.00	-\$ (3,718.00)
	10	3 Block B	Jananna Corp.	9-164	45.3	\$ 10,649.00	\$ 11,040.00		\$ 21,689.00	\$ 7,230.00	\$ -	\$ 14,459.00
	11	3 Block B	Kenneth & Catherine Heintz	9-156	6.2	\$ -	\$ 1,030.00		\$ 1,030.00	\$ 343.00	\$ -	\$ 687.00
Total Assessments on Lands						\$ 86,040.00	\$ 31,423.00	\$ 68,460.00	\$ 185,923.00	\$ 61,974.00	\$ 90,930.00	\$ 33,019.00
Gerber Road Region of Waterloo						\$ -	\$ 4,364.00		\$ 4,364.00			\$ 4,364.00
Total Assessments on Roads						\$ -	\$ 4,364.00	\$ -	\$ 4,364.00			\$ 4,364.00
Total Assessments												
Main Open Township of Wilmot						\$ 86,040.00	\$ 35,787.00	\$ 68,460.00	\$ 190,287.00	\$ 61,974.00	\$ 90,930.00	\$ 37,383.00
Township of Wellesley												
6	2 East	Natalee Ridgeway	1-007-00	7.98	\$ -	\$ 1,571.00			\$ 1,571.00	\$ 524.00	\$ -	\$ 1,047.00
6	2 East	Ronald & Rosemary McCormick	1-007-01	5.79	\$ -	\$ 1,140.00			\$ 1,140.00	\$ 380.00	\$ -	\$ 760.00
7	2 East	Ladislaus & Laurretta Bauer	1-008-02	8.45	\$ -	\$ 848.00			\$ 848.00	\$ 283.00	\$ -	\$ 565.00
7	2 East	264171 Holdings Ltd.	1-008	25.45	\$ -	\$ 2,757.00			\$ 2,757.00	\$ 919.00	\$ -	\$ 1,838.00
7	2 East	Jeffrey Furtado & Paige Stewart	1-008-01	4.5	\$ -	\$ 99.00			\$ 99.00	\$ 33.00	\$ -	\$ 66.00
8	2 East	Robert & Anne Jantzi	1-009	25	\$ -	\$ 4,759.00			\$ 4,759.00	\$ 1,586.00	\$ -	\$ 3,173.00
8	3 East	Bamway Industries Inc.	1-027	6.9	\$ -	\$ 1,006.00			\$ 1,006.00	\$ 335.00	\$ -	\$ 671.00
8	3 East	Jammon & Elvina Bauman	1-026	6.3	\$ -	\$ 933.00			\$ 933.00	\$ 311.00	\$ -	\$ 622.00
Total Assessments on Lands						\$ -	\$ 13,113.00	\$ -	\$ 13,113.00	\$ 4,371.00	\$ -	\$ 8,742.00
Total Assessments												
Township of Wellesley						\$ -	\$ 13,113.00	\$ -	\$ 13,113.00	\$ 4,371.00	\$ -	\$ 8,742.00
Total Assessments												
Bamberg Creek Drain						\$ 86,040.00	\$ 48,900.00	\$ 68,460.00	\$ 203,400.00	\$ 66,345.00	\$ 90,930.00	\$ 46,125.00

Jananna - East Branch	Property Details					Drainage Act Instruments of Assessment				For Information		
	Part Lot	Concession	Landowner	Roll Number	Approx. Ha. Affected	Benefit (Sec. 22)	Outlet Liability (Sec. 23)	Special Benefit (Sec. 24)	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
	Township of Wilmot											
	9	3 Block B	Cory & Kirby Kittel	9-165	13.84	\$ 9,278.00	\$ 17,478.00		\$ 26,756.00	\$ 8,919.00	\$ 7,040.00	\$ 10,797.00
	10	3 Block B	Jananna Corp.	9-164	5.88	\$ 52,342.00	\$ 8,957.00		\$ 61,299.00	\$ 20,433.00	\$ 11,500.00	\$ 29,366.00
	Total Assessments on Lands					\$ 61,620.00	\$ 26,435.00	\$ -	\$ 88,055.00	\$ 29,352.00	\$ 18,540.00	\$ 40,163.00
	Gerber Road Region of Waterloo					\$ -	\$ 7,205.00		\$ 7,205.00			\$ 7,205.00
	Total Assessments on Roads					\$ -	\$ 7,205.00	\$ -	\$ 7,205.00			\$ 7,205.00
	Total Assessments Main Closed Township of Wilmot					\$ 61,620.00	\$ 33,640.00	\$ -	\$ 95,260.00	\$ 29,352.00	\$ 18,540.00	\$ 47,368.00
	Township of Wellesley											
	6	2 East	Natalee Ridgeway	1-007-00	7.98	\$ -	\$ 5,529.00		\$ 5,529.00	\$ 1,843.00	\$ -	\$ 3,686.00
	6	2 East	Ronald & Rosemary McCormick	1-007-01	5.79	\$ -	\$ 4,011.00		\$ 4,011.00	\$ 1,337.00	\$ -	\$ 2,674.00
	Total Assessments on Lands					\$ -	\$ 9,540.00	\$ -	\$ 9,540.00	\$ 3,180.00	\$ -	\$ 6,360.00
	Total Assessments Main Closed Township of Wellesley					\$ -	\$ 9,540.00	\$ -	\$ 9,540.00	\$ 3,180.00	\$ -	\$ 6,360.00
	Total Assessments Jananna - East Branch					\$ 61,620.00	\$ 43,180.00	\$ -	\$ 104,800.00	\$ 32,532.00	\$ 18,540.00	\$ 53,728.00

Jananna - West Branch	Property Details					Drainage Act Instruments of Assessment				For Information		
	Part Lot	Concession	Landowner	Roll Number	Approx. Ha. Affected	Benefit (Sec. 22)	Outlet Liability (Sec. 23)	Special Benefit (Sec. 24)	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
	Township of Wilmot											
	10	3 Block B	Jananna Corp.	9-164	9.34	\$ 51,156.00	\$ 6,344.00		\$ 57,500.00	\$ 19,167.00	\$ 22,800.00	\$ 15,533.00
	Total Assessments on Lands					\$ 51,156.00	\$ 6,344.00	\$ -	\$ 57,500.00	\$ 19,167.00	\$ 22,800.00	\$ 15,533.00
	Gerber Road Region of Waterloo					\$ 9,624.00	\$ 10,631.00		\$ 20,255.00			\$ 20,255.00
	Total Assessments on Roads					\$ 9,624.00	\$ 10,631.00	\$ -	\$ 20,255.00			\$ 20,255.00
	Total Assessments Branch Township of Wilmot					\$ 60,780.00	\$ 16,975.00	\$ -	\$ 77,755.00	\$ 19,167.00	\$ 22,800.00	\$ 35,788.00
	Township of Wellesley											
	7	1-008-02	Ladislaus & Laurretta Bauer	1-008-02	8.45	\$ -	\$ 9,395.00		\$ 9,395.00	\$ 3,132.00	\$ -	\$ 6,263.00
	7	1-008	264171 Holdings Ltd.	1-008	6.26	\$ -	\$ 7,650.00		\$ 7,650.00	\$ 2,550.00	\$ -	\$ 5,100.00
	Total Assessments on Lands					\$ -	\$ 17,045.00	\$ -	\$ 17,045.00	\$ 5,682.00	\$ -	\$ 11,363.00
	Total Assessments Township of Wellesley					\$ -	\$ 17,045.00	\$ -	\$ 17,045.00	\$ 5,682.00	\$ -	\$ 11,363.00
	Total Assessments Jananna - West Branch					\$ 60,780.00	\$ 34,020.00	\$ -	\$ 94,800.00	\$ 24,849.00	\$ 22,800.00	\$ 47,151.00

Koch-Leis Drain	Property Details					Drainage Act Instruments of Assessment				For Information		
	Part Lot	Concession	Landowner	Roll Number	Approx. Ha. Affected	Benefit (Sec. 22)	Outlet Liability (Sec. 23)	Special Benefit (Sec. 24)	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
	Township of Wilmot											
	10	3 Block B	Peter & Dagmar Schneider	9-153	6.3	\$ 6,317.00	\$ 272.00	\$ 10,800.00	\$ 17,389.00	\$ 5,796.00	\$ 12,040.00	-\$ 447.00
	10	3 Block B	David & Sherri Homanchuk	9-154	1.7	\$ 8,509.00	\$ 4.00		\$ 8,513.00	\$ 2,838.00	\$ 3,930.00	\$ 1,745.00
	10	3 Block B	Jananna Corp.	9-164	28.7	\$ 3,494.00	\$ 1,850.00	\$ 20,520.00	\$ 25,864.00	\$ 8,621.00	\$ 19,160.00	-\$ 1,917.00
	11	3 Block B	Kenneth & Catherine Heintz	9-156	6.2	\$ -	\$ 202.00		\$ 202.00	\$ 67.00	\$ -	\$ 135.00
	11	3 Block B	Roadside Farm Inc.	9-163	42.8	\$ -	\$ 3,158.00		\$ 3,158.00	\$ 1,053.00	\$ -	\$ 2,105.00
	12	3 Block B	David & Eva Cressman	9-160	3.1	\$ -	\$ 244.00		\$ 244.00	\$ 81.00	\$ -	\$ 163.00
	Total Assessments on Lands					\$ 18,320.00	\$ 5,730.00	\$ 31,320.00	\$ 55,370.00	\$ 18,456.00	\$ 35,130.00	\$ 1,784.00
	Gerber Road		Region of Waterloo			2.1	\$ -	\$ 825.00		\$ 825.00		\$ 825.00
	Total Assessments on Roads					\$ -	\$ 825.00	\$ -	\$ 825.00			\$ 825.00
	Total Assessments											
	Branch Township of Wilmot					\$ 18,320.00	\$ 6,555.00	\$ 31,320.00	\$ 56,195.00	\$ 18,456.00	\$ 35,130.00	\$ 2,609.00
	Township of Wellesley											
7	2 East	Ladislaus & Laurretta Bauer	1-008-02	8.45	\$ -	\$ 302.00		\$ 302.00	\$ 101.00	\$ -	\$ 201.00	
7	2 East	264171 Holdings Ltd.	1-008	25.45	\$ -	\$ 982.00		\$ 982.00	\$ 327.00	\$ -	\$ 655.00	
7	2 East	Jeffrey Furtado & Paige Stewart	1-008-01	4.5	\$ -	\$ 35.00		\$ 35.00	\$ 12.00	\$ -	\$ 23.00	
8	2 East	Robert & Anne Jantzi	1-009	25	\$ -	\$ 1,696.00		\$ 1,696.00	\$ 565.00	\$ -	\$ 1,131.00	
8	3 East	Bamway Industries Inc.	1-027	6.9	\$ -	\$ 358.00		\$ 358.00	\$ 119.00	\$ -	\$ 239.00	
8	3 East	Jammon & Elvina Bauman	1-026	6.3	\$ -	\$ 332.00		\$ 332.00	\$ 111.00	\$ -	\$ 221.00	
Total Assessments on Lands					\$ -	\$ 3,705.00	\$ -	\$ 3,705.00	\$ 1,235.00	\$ -	\$ 2,470.00	
Total Assessments												
Township of Wellesley					\$ -	\$ 3,705.00	\$ -	\$ 3,705.00	\$ 1,235.00	\$ -	\$ 2,470.00	
Total Assessments												
Koch-Leis Drain					\$ 18,320.00	\$ 10,260.00	\$ 31,320.00	\$ 59,900.00	\$ 19,691.00	\$ 35,130.00	\$ 5,079.00	

	Drainage Act Instruments of Assessment				For Information		
	Benefit (Sec. 22)	Outlet Liability (Sec. 23)	Special Benefit (Sec. 24)	Total Assessment	Less Gov't Grant	Less Allowances	Net Estimated Expense
Total Assessments							
Bamberg Creek, Jananna, and Koch-Leis Municipal							
Drains 2023							
	\$ 226,760.00	\$ 136,360.00	\$ 99,780.00	\$ 462,900.00	\$ 143,417.00	\$ 167,400.00	\$ 152,083.00

- Notes:
- 1 All Lands may be eligible for ADIP Grants.
 - 2 The Special Benefit Assessment (Sec. 24) is the benefit portion of the crossing considerations.
 - 3 The Net Estimated Expense is the Total Assessment less gov't grants and allowances (if applicable).

Schedule of Assessment for Construction Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023

Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023	Property Details				Assessment Summary					For Information		
	Part	Roll			Bamberg Creek	Jananna - East	Jananna -	Koch-Leis		Less Gov't	Less	Net Estimated
	Lot	Concession	Landowner	Number	Drain	Branch	West Branch	Drain	Total Assessment	Grant	Allowances	Expense
	Township of Wilmot											
	9	3 Block B	Oleg & Elena Borissova	9-151	\$ 7,857.00	\$ -	\$ -	\$ -	\$ 7,857.00	\$ 2,619.00	\$ 3,040.00	\$ 2,198.00
	9	3 Block B	Cory & Kirby Kittel	9-165	\$ 22,615.00	\$ 26,756.00	\$ -	\$ -	\$ 49,371.00	\$ 16,457.00	\$ 7,580.00	\$ 25,334.00
	10	3 Block B	Peter & Dagmar Schneider	9-153	\$ 14,433.00	\$ -	\$ -	\$ 17,389.00	\$ 31,822.00	\$ 10,607.00	\$ 16,070.00	\$ 5,145.00
	10	3 Block B	Peter & Barbara Wurtele	9-153-01	\$ 45,013.00	\$ -	\$ -	\$ -	\$ 45,013.00	\$ 15,004.00	\$ 37,110.00	-\$ (7,101.00)
	10	3 Block B	David & Sherri Homanchuk	9-154	\$ 63,738.00	\$ -	\$ -	\$ 8,513.00	\$ 72,251.00	\$ 24,084.00	\$ 50,140.00	-\$ (1,973.00)
	10	3 Block B	Jananna Corp.	9-164	\$ 21,689.00	\$ 61,299.00	\$ 57,500.00	\$ 25,864.00	\$ 166,352.00	\$ 55,451.00	\$ 53,460.00	\$ 57,441.00
	11	3 Block B	Kenneth & Catherine Heintz	9-156	\$ 1,030.00	\$ -	\$ -	\$ 202.00	\$ 1,232.00	\$ 411.00	\$ -	\$ 821.00
	11	3 Block B	Roadside Farm Inc.	9-163	\$ 8,864.00	\$ -	\$ -	\$ 3,158.00	\$ 12,022.00	\$ 4,007.00	\$ -	\$ 8,015.00
	12	3 Block B	David & Eva Cressman	9-160	\$ 684.00	\$ -	\$ -	\$ 244.00	\$ 928.00	\$ 309.00	\$ -	\$ 619.00
	Total Assessments on Lands				\$ 185,923.00	\$ 88,055.00	\$ 57,500.00	\$ 55,370.00	\$ 386,848.00	\$ 128,949.00	\$ 167,400.00	\$ 90,499.00
	Gerber Road		Region of Waterloo		\$ 4,364.00	\$ 7,205.00	\$ 20,255.00	\$ 825.00	\$ 32,649.00			\$ 32,649.00
	Total Assessments on Roads				\$ 4,364.00	\$ 7,205.00	\$ 20,255.00	\$ 825.00	\$ 32,649.00			\$ 32,649.00
	Total Assessments											
	Township of Wilmot				\$ 190,287.00	\$ 95,260.00	\$ 77,755.00	\$ 56,195.00	\$ 419,497.00	\$ 128,949.00	\$ 167,400.00	\$ 123,148.00
	Township of Wellesley											
	6	2 East	Natalee Ridgeway	1-007-00	\$ 1,571.00	\$ 5,529.00	\$ -	\$ -	\$ 7,100.00	\$ 2,367.00		\$ 4,733.00
6	2 East	Ronald & Rosemary McCormick	1-007-01	\$ 1,140.00	\$ 4,011.00	\$ -	\$ -	\$ 5,151.00	\$ 1,717.00		\$ 3,434.00	
7	2 East	Ladislaus & Laurretta Bauer	1-008-02	\$ 848.00	\$ -	\$ 9,395.00	\$ 302.00	\$ 10,545.00	\$ 3,515.00		\$ 7,030.00	
7	2 East	264171 Holdings Ltd.	1-008	\$ 2,757.00	\$ -	\$ 7,650.00	\$ 982.00	\$ 11,389.00	\$ 3,796.00		\$ 7,593.00	
7	2 East	Jeffrey Furtado & Paige Stewart	1-008-01	\$ 99.00	\$ -	\$ -	\$ 35.00	\$ 134.00	\$ 45.00		\$ 89.00	
8	2 East	Robert & Anne Jantzi	1-009	\$ 4,759.00	\$ -	\$ -	\$ 1,696.00	\$ 6,455.00	\$ 2,152.00		\$ 4,303.00	
8	3 East	Bamway Industries Inc.	1-027	\$ 1,006.00	\$ -	\$ -	\$ 358.00	\$ 1,364.00	\$ 455.00		\$ 909.00	
8	3 East	Jammon & Elvina Bauman	1-026	\$ 933.00	\$ -	\$ -	\$ 332.00	\$ 1,265.00	\$ 422.00		\$ 843.00	
Total Assessments on Lands				\$ 13,113.00	\$ 9,540.00	\$ 17,045.00	\$ 3,705.00	\$ 43,403.00	\$ 14,469.00	\$ -	\$ 28,934.00	
Total Assessments												
Township of Wellesley				\$ 13,113.00	\$ 9,540.00	\$ 17,045.00	\$ 3,705.00	\$ 43,403.00	\$ 14,469.00	\$ -	\$ 28,934.00	
Total Assessments												
Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023				\$ 203,400.00	\$ 104,800.00	\$ 94,800.00	\$ 59,900.00	\$ 462,900.00	\$ 143,418.00	\$ 167,400.00	\$ 152,082.00	

Notes:

- 1 All Lands may be eligible for ADIP Grants.
- 2 The Net Estimated Expense is the Total Assessment less gov't grants and allowances (if applicable).



Schedule D

Assessment for Future Maintenance

Schedule of Assessment for Future Maintenance Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023

Bamberg Creek Drain	Property Details				Interval			
					0+000 to 0+287		0+287 to 0+650	
	Part Lot	Concession	Landowner	Roll Number	Approx. Hectares Affected	Portion of Maintenance Assessment	Approx. Hectares Affected	Portion of Maintenance Assessment
	Township of Wilmot							
	9	3 Block B	Oleg & Elena Borissova	9-151	2.00	8.9%	8.54	4.0%
	9	3 Block B	Cory & Kirby Kittel	9-165	13.84	32.1%	13.84	5.2%
	10	3 Block B	Peter & Dagmar Schneider	9-153			9.30	8.2%
	10	3 Block B	Peter & Barbara Wurtele	9-153-01			0.89	3.4%
	10	3 Block B	David & Sherri Homanchuk	9-154	1.00	9.5%	3.70	4.8%
	10	3 Block B	Jananna Corp.	9-164	5.88	14.7%	45.30	21.5%
	11	3 Block B	Kenneth & Catherine Heintz	9-156			6.20	2.2%
	11	3 Block B	Roadside Farm Inc.	9-163			42.80	18.8%
	12	3 Block B	David & Eva Cressman	9-160			3.10	1.4%
	Total Assessments on Lands				22.72	65.2%	133.67	69.6%
	Gerber Road Region of Waterloo				1.04	15.0%	3.14	5.2%
	Total Assessments on Roads				1.04	15.0%	3.14	5.2%
	Total Assessments Township of Wilmot				23.76	80.2%	136.81	74.7%
	Township of Wellesley							
	6	2 East	Natalee Ridgeway	1-007-00	7.98	11.5%	7.98	1.9%
	6	2 East	Ronald & Rosemary McCormick	1-007-01	5.79	8.3%	5.79	1.4%
	7	2 East	Ladislaus & Lauretta Bauer	1-008-02			8.45	1.8%
	7	2 East	264171 Holdings Ltd.	1-008			25.45	5.8%
	7	2 East	Jeffrey Furtado & Paige Stewart	1-008-01			4.50	0.2%
	8	2 East	Robert & Anne Jantzi	1-009			25.00	10.1%
	8	3 East	Bamway Industries Inc.	1-027			6.90	2.1%
	8	3 East	Jammon & Elvina Bauman	1-026			6.30	2.0%
	Total Assessments on Lands				13.77	19.8%	84.58	25.2%
	Total Assessments Township of Wellesley				13.77	19.8%	84.58	25.2%
	Total Assessments Bamberg Creek Drain				37.53	100.0%	221.39	100.0%

Jananna - East Branch	Property Details				Interval			
					0+000 to 0+218		0+218 to 0+598	
	Part Lot	Concession	Landowner	Roll Number	Approx. Hectares Affected	Portion of Maintenance Assessment	Approx. Hectares Affected	Portion of Maintenance Assessment
	Township of Wilmot							
	9	3 Block B	Cory & Kirby Kittel	9-165	13.84	43.3%	0.68	36.8%
	10	3 Block B	Jananna Corp.	9-164	5.88	16.9%	1.50	63.2%
	Total Assessments on Lands				19.72	60.2%	2.18	100.0%
	Gerber Road Region of Waterloo				1.04	17.1%		
	Total Assessments on Roads				1.04	17.1%		
	Total Assessments Main Closed Township of Wilmot				20.76	77.3%	2.18	100.0%
	Township of Wellesley							
	6	2 East	Natalee Ridgeway	1-007-00	7.98	13.1%		
	6	2 East	Ronald & Rosemary McCormick	1-007-01	5.79	9.5%		
	Total Assessments on Lands				7.98	22.7%		
	Total Assessments Township of Wellesley				7.98	22.7%		
	Total Assessments Jananna - East Branch				28.74	100.0%	2.18	100.0%

Jananna - West Branch	Property Details				Interval	
					0+000 to 0+760	
	Part Lot	Concession	Landowner	Roll Number	Approx. Hectares Affected	Portion of Maintenance Assessment
	Township of Wilmot					
	10	3 Block B	Jananna Corp.	9-164	9.34	42.6%
	Total Assessments on Lands				9.34	42.6%
	Gerber Road		Region of Waterloo		0.87	22.0%
	Total Assessments on Roads				0.87	22.0%
	Total Assessments Township of Wilmot				10.21	64.7%
	7	2 East	Ladislaus & Laurretta Bauer	1-008-02	8.45	19.5%
	7	2 East	264171 Holdings Ltd.	1-008	6.26	15.9%
	Total Assessments on Lands				8.45	35.3%
	Total Assessments Township of Wellesley				8.45	35.3%
	Total Assessments Jananna - West Branch				18.66	100.0%

Koch-Leis Drain	Property Details				Interval					
					0+000 to 0+551		0+551 to Gerber Road		Township of Wellesley	
	Part Lot	Concession	Landowner	Roll Number	Approx. Hectares Affected	Portion of Maintenance Assessment	Approx. Hectares Affected	Portion of Maintenance Assessment	Approx. Hectares Affected	Portion of Maintenance Assessment
	Township of Wilmot									
	10	3 Block B	Peter & Dagmar Schneider	9-153	6.30	7.3%				
	10	3 Block B	David & Sherri Homanchuk	9-154	1.70	4.5%				
	10	3 Block B	Jananna Corp.	9-164	28.70	22.1%	0.50	0.70%		
	11	3 Block B	Kenneth & Catherine Heintz	9-156	6.20	2.9%				
	11	3 Block B	Roadside Farm Inc.	9-163	42.80	25.1%	25.00	39.5%		
	12	3 Block B	David & Eva Cressman	9-160	3.10	1.9%	3.10	3.7%		
	Total Assessments on Lands				88.80	63.9%	28.60	44.0%		
	Gerber Road Region of Waterloo				2.10	6.6%	1.23	7.4%		
	Total Assessments on Roads				2.10	6.6%	1.23	7.4%	0.00	0.0%
	Total Assessments Township of Wilmot				90.90	70.5%	29.83	51.4%	0.00	0.0%
	7	2 East	Ladislaus & Laurretta Bauer	1-008-02	8.45	2.4%				
	7	2 East	264171 Holdings Ltd.	1-008	25.45	7.8%	18.69	11.3%	18.69	23.8%
	7	2 East	Jeffrey Furtado & Paige Stewart	1-008-01	4.50	0.3%	4.50	0.5%	4.50	1.1%
	8	2 East	Robert & Anne Jantzi	1-009	25.00	13.5%	25.00	26.1%	25.00	54.0%
	8	3 East	Bamway Industries Inc.	1-027	6.90	2.9%	6.90	5.5%	6.90	10.9%
	8	3 East	Jammon & Elvina Bauman	1-026	6.30	2.6%	6.30	5.1%	6.30	10.2%
	Total Assessments on Lands				76.60	29.5%	61.39	48.6%	61.39	100.0%
	Total Assessments Township of Wellesley				76.60	29.5%	61.39	48.6%	61.39	100.0%
	Total Assessments Koch-Leis Drain				167.50	100.0%	91.22	100.0%	61.39	100.0%

Notes:

- 1 All Lands may be eligible for ADIP Grants.
- 2 All maintenance activities on road right-of-ways shall be completed at the expense of the the road authority having jurisdiction over the road.
- 3 Lands located upstream of the maintenance shall be determined by the the Drainage Superintendent.



Specifications for the Construction of Municipal Drainage Works

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DIVISION B – Specifications for Open Drains
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DIVISION A

General Conditions



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DIVISION A – GENERAL CONDITIONS

A.1. Scope

The work to be done under this contract consists of supplying all labour, equipment and materials to construct the drainage work as outlined in the Scope of Work, Drawings, General Conditions and other Specifications.

A.2. Tenders

Tenders are to be submitted on a lump sum basis for the complete works or a portion thereof, as instructed by the Municipality. The Scope of Work must be completed and submitted with the Form of Tender and Agreement. A certified cheque is required as Tender Security, payable to the Treasurer of the Municipality.

All certified cheques, except that of the bidder to whom the work is awarded will be returned within ten (10) days after the tender closing. The certified cheque of the bidder to whom the work is awarded will be retained as Contract Security and returned when the Municipality receives a Completion Certificate for the work.

A certified cheque is not required if the Contractor provides an alternate form of Contract Security such as a Performance Bond for 100% of the amount of the Tender or other satisfactory security, if required/permitted by the Municipality. A Performance Bond may also be required to insure maintenance of the work for a period of one (1) year after the date of the Completion Certificate.

A.3. Examinations of Site, Drawings, and Specifications

The Tenderer must examine the premises and site to compare them with the Drawings and Specifications in order to satisfy himself of the existing conditions and extent of the work to be done before submission of his Tender. No allowance shall subsequently be made on behalf of the Contractor by reason of any error on his part. Any estimates of quantities shown or indicated on the Drawings, or elsewhere are provided for the convenience of the Tenderer. Any use made of these quantities by the Tenderer in calculating his Tender shall be done at his own risk. The Tenderer for his own protection should check these quantities for accuracy.

The standard specifications (Divisions B through G) shall be considered complementary and where a project is controlled under one of the Divisions, the remaining Divisions will apply for miscellaneous works.

In case of any inconsistency or conflict between the Drawings and Specifications, the following order of precedence shall apply:

- Direction of the Engineer
- Special Provisions (Division H)
- Scope of Work
- Contract Drawings
- Standard Specifications (Divisions B through G)
- General Conditions (Division A)



A.4. Payment

Progress payments equal to 87±% of the value of work completed and materials incorporated in the work will be made to the Contractor monthly. An additional ten per cent (10±%) will be paid 45 days after the final acceptance by the Engineer, and three per cent (3±%) of the Contract price may be reserved by the Municipality as a maintenance holdback for a one (1) year period from the date of the Completion Certificate. A greater percentage of the Contract price may be reserved by the Municipality for the same one (1) year period if in the opinion of the Engineer, particular conditions of the Contract requires such greater holdback.

After the completion of the work, any part of this reserve may be used to correct defects developed within that time from faulty workmanship and materials, provided that notice shall first be given to the Contractor and that he may promptly make good such defects.

A.5. Contractor's Liability Insurance

Prior to commencement of any work, the Contractor shall file with the Municipality evidence of compliance with all Municipality insurance requirements (Liability Insurance, WSIB, etc.) for no less than the minimum amounts as stated in the Purchasing Procedures of the Municipality. All insurance coverage shall remain in force for the entire contract period including the warranty period which expires one year after the date of the Completion Certificate.

The following are to be named as co-insured:

- Successful Contractor
- Sub-Contractor
- Municipality
- Headway Engineering

A.6. Losses Due to Acts of Nature, Etc.

All damage, loss, expense and delay incurred or experienced by the Contractor in the performance of the work, by reason of unanticipated difficulties, bad weather, strikes, acts of nature, or other mischances shall be borne by the Contractor and shall not be the subject of a claim for additional compensation.

A.7. Commencement and Completion of Work

The work must commence as specified in the Form of Tender and Agreement. If conditions are unsuitable due to poor weather, the Contractor may be required, at the discretion of the Engineer to postpone or halt work until conditions become acceptable and shall not be subject of a claim for additional compensation.

The Contractor shall give the Engineer a minimum of 48 hours notice before commencement of work. The Contractor shall then arrange a meeting to be held on the site with Contractor, Engineer, and affected Landowners to review in detail the construction scheduling and other details of the work.

If the Contractor leaves the job site for a period of time after initiation of work, he shall give the Engineer and the Municipality a minimum of 24 hours notice prior to returning to the project. If any work is commenced without notice to the Engineer, the Contractor shall be fully responsible for all such work undertaken prior to such notification.



The work must proceed in such a manner as to ensure its completion at the earliest possible date and within the time limit set out in the Form of Tender and Agreement.

A.8. Working Area and Access

Where any part of the drain is on a road allowance, the road allowance shall be the working area. For all other areas, the working area available to the Contractor to construct the drain is specified in the Special Provisions (Division H).

Should the specified widths become inadequate due to unusual conditions, the Contractor shall notify the Engineer immediately. Where the Contractor exceeds the specified working widths without authorization, he shall be held responsible for the costs of all additional damages.

If access off an adjacent road allowance is not possible, each Landowner on whose property the drainage works is to be constructed, shall designate access to and from the working area. The Contractor shall not enter any other lands without permission of the Landowner and he shall compensate the Landowner for damage caused by such entry.

A.9. Sub-Contractors

The Contractor shall not sublet the whole or part of this Contract without the approval of the Engineer.

A.10. Permits, Notices, Laws and Rules

The Contractor shall obtain and pay for all necessary permits or licenses required for the execution of the work (but this shall not include MTO encroachment permits, County Road permits permanent easement or rights of servitude). The Contractor shall give all necessary notices and pay for all fees required by law and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public's health and safety.

A.11. Railways, Highways, and Utilities

A minimum of 72 hours' notice to the Railway or Highways, exclusive of Saturdays, Sundays, and Statutory Holidays, is required by the Contractor prior to any work activities on or affecting the applicable property. In the case of affected Utilities, a minimum of 48 hours' notice to the utility owner is required.

A.12. Errors and Unusual Conditions

The Contractor shall notify the Engineer immediately of any error or unusual conditions which may be found. Any attempt by the Contractor to correct the error on his own shall be done at his own risk. Any additional cost incurred by the Contractor to remedy the wrong decision on his part shall be borne by the Contractor. The Engineer shall make the alterations necessary to correct errors or to adjust for unusual conditions during which time it will be the Contractor's responsibility to keep his men and equipment gainfully employed elsewhere on the project.

The Contract amount shall be adjusted in accordance with a fair evaluation of the work added or deleted.

A.13. Alterations and Additions

The Engineer shall have the power to make alterations in the work shown or described in the Drawings and Specifications and the Contractor shall proceed to make such changes without causing delay. In



every such case, the price agreed to be paid for the work under the Contract shall be increased or decreased as the case may require according to a fair and reasonable evaluation of the work added or deleted. The valuation shall be determined as a result of negotiations between the Contractor and the Engineer, but in all cases the Engineer shall maintain the final responsibility for the decision. Such alterations and variations shall in no way render the Contract void. No claims for a variation or alteration in the increased or decreased price shall be valid unless done in pursuance of an order from the Engineer and notice of such claims made in writing before commencement of such work. In no such case shall the Contractor commence work which he considers to be extra before receiving the Engineer's approval.

A.14. Supervision

The Contractor shall give the work his constant supervision and shall keep a competent foreman in charge at the site.

A.15. Field Meetings

At the discretion of the Engineer, a field meeting with the Contractor or his representative, the Engineer and with those others that the Engineer deems to be affected, shall be held at the location and time specified by the Engineer.

A.16. Periodic and Final Inspections

Periodic inspections by the Engineer will be made during the performance of the work. If ordered by the Engineer, the Contractor shall expose the drain as needed to facilitate inspection by the Engineer.

Final inspection by the Engineer will be made within twenty (20) days after he has received notice from the Contractor that the work is complete.

A.17. Acceptance By the Municipality

Before any work shall be accepted by the Municipality, the Contractor shall correct all deficiencies identified by the Engineer and the Contractor shall leave the site neat and presentable.

A.18. Warranty

The Contractor shall repair and make good any damages or faults in the drain that may appear within one (1) year after its completion (as dated on the Completion Certificate) as the result of the imperfect or defective work done or materials furnished if certified by the Engineer as being due to one or both of these causes; but nothing herein contained shall be construed as in any way restricting or limiting the liability of the Contractor under the laws of the Country, Province or Locality in which the work is being done. Neither the Completion Certificate nor any payment there under, nor any provision in the Contract Documents shall relieve the Contractor from his responsibility.

A.19. Termination of Contract By The Municipality

If the Contractor should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should refuse or fail to supply enough properly skilled workmen or proper materials after having received seven (7) days notice in writing from the Engineer to supply additional workmen or materials to commence or complete the works, or if he should fail to make prompt payment to Sub-Contractors, or for material, or labour, or persistently disregards laws, ordinances, or the instruction of the Engineer,



or otherwise be guilty of a substantial violation of the provisions of the Contract, then the Municipality, upon the certificate of the Engineer that sufficient cause exists to justify such action, may without prejudice to any other right or remedy, by giving the Contractor written notice, terminate the employment of the Contractor and take possession of the premises, and of all materials, tools and appliances thereon, and may finish the work by whatever method the Engineer may deem expedient but without delay or expense. In such a case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price will exceed the expense of finishing the work including compensation to the Engineer for his additional services and including the other damages of every name and nature, such excess shall be paid by the Contractor. If such expense will exceed such unpaid balance, the Contractor shall pay the difference to the Municipality. The expense incurred by the Municipality, as herein provided, shall be certified by the Engineer.

If the Contract is terminated by the Municipality due to the Contractor's failure to properly commence the works, the Contractor shall forfeit the certified cheque bid deposit and furthermore shall pay to the Municipality an amount to cover the increased costs, if any, associated with a new Tender for the Contract being terminated.

If any unpaid balance and the certified cheque do not match the monies owed by the Contractor upon termination of the Contract, the Municipality may also charge such expense against any money which may thereafter be due to the Contractor from the Municipality.

A.20. Tests

The cost for the testing of materials supplied to the job by the Contractor shall be borne by the Contractor. The Engineer reserves the right to subject any lengths of any tile or pipe to a competent testing laboratory to ensure the adequacy of the tile or pipe. If any tile supplied by the Contractor is determined to be inadequate to meet the applicable A.S.T.M. standards, the Contractor shall bear full responsibility to remove and/or replace all such inadequate tile in the Contract with tile capable of meeting the A.S.T.M. Standards.

A.21. Pollution

The Contractor shall keep their equipment in good repair. The Contractor shall refuel or repair equipment away from open water.

If polluted material from construction materials or equipment is caused to flow into the drain, the Contractor shall immediately notify the Ministry of the Environment, and proceed with the Ministry's protocols in place to address the situation.

A.22. Species and Risk

If a Contractor encounters a known Species at Risk as designated by the MNR or DFO, the Contractor shall notify the Engineer immediately and follow the Ministry's guidelines to deal with the species.

A.23. Road Crossings

This specification applies to all road crossings (Municipality, County, Regional, or Highway) where no specific detail is provided on the drawings or in the standard specifications. This specification in no way limits the Road Authority's regulations governing the construction of drains on their Road Allowance.

A.23.1. Road Occupancy Permit



Where applicable, the Contractor must submit an application for a road occupancy permit to the Road Authority and allow a minimum of five (5) working days for its review and issuance.

A.23.2. Road Closure Request and Construction Notification

The Contractor shall submit written notification of construction and request for road closure (if applicable) to the Road Authority and the Engineer for review and approval a minimum of five (5) working days prior to proceeding with any work on the road allowance. The Contractor shall be responsible for notifying all applicable emergency services, schools, etc. of the road closure or construction taking place.

A.23.3. Traffic Control

The Contractor shall supply flagmen, and warning signs and ensure that detour routes are adequately signed in accordance with no less than the minimum standards as set out in the Ontario Traffic Manual's Book 7.

A.23.4. Weather

No construction shall take place during inclement weather or periods of poor visibility.

A.23.5. Equipment

No construction material and/or equipment is to be left within three (3) metres of the travelled portion of the road overnight or during periods of inclement weather.

If not stated on the drawings, the road crossing shall be constructed by open cut method. Backfill from the top of the cover material over the subsurface pipe or culvert to the under side of the road base shall be Granular "B". The backfill shall be placed in lifts not exceeding 300mm in thickness and each lift shall be thoroughly compacted to 98% Standard Proctor. Granular "B" road base for County Roads and Highways shall be placed to a 450mm thickness and Granular "A" shall be placed to a thickness of 200mm. Granular road base materials shall be thoroughly compacted to 100% Standard Proctor.

Where the road surface is paved, the Contractor shall be responsible for placing HL-8 Hot Mix Asphalt patch at a thickness of 50mm or of the same thickness as the existing pavement structure. The asphalt patch shall be flush with the existing roadway on each side and without overlap.

Excavated material from the trench beyond 1.25 metres from the travelled portion or beyond the outside edge of the gravel shoulder may be used as backfill in the trench in the case of covered drains. The material shall be compacted in lifts not exceeding 300mm.

A.24. Laneways

All pipes crossing laneways shall be backfilled with material that is clean, free of foreign material or frozen particles and readily tamped or compacted in place unless otherwise specified. Laneway culverts on open ditch projects shall be backfilled with material that is not easily erodible. All backfill material shall be thoroughly compacted as directed by the Engineer.

Culverts shall be bedded with a minimum of 300mm of granular material. Granular material shall be placed simultaneously on each side of the culvert in lifts not exceeding 150mm in thickness and compacted to 95% Standard Proctor Density. Culverts shall be installed a minimum of 10% of the



culvert diameter below design grade with a minimum of 450mm of cover over the pipe unless otherwise noted on the Drawings.

The backfill over culverts and subsurface pipes at all existing laneways that have granular surfaces on open ditch and closed drainage projects shall be surfaced with a minimum of 300mm of Granular “B” material and 150mm of Granular “A” material. All backfill shall be thoroughly compacted as directed by the Engineer. All granular material shall be placed to the full width of the travelled portion.

Any settling of backfilled material shall be repaired by or at the expense of the Contractor during the warranty period of the project and as soon as required.

A.25. Fences

No earth is to be placed against fences and all fences removed by the Contractor shall be replaced by him in as good a condition as found. Where practical the Contractor shall take down existing fences in good condition at the nearest anchor post and roll it back rather than cutting the fence and attempting to patch it. The replacement of the fences shall be done to the satisfaction of the Engineer. Any fences found in such poor condition where the fence is not salvageable, shall be noted and verified with the Engineer prior to commencement of work.

Fences damaged beyond repair by the Contractor’s negligence shall be replaced with new materials, similar to those materials of the existing fence, at the Contractor’s expense. The replacement of the fences shall be done to the satisfaction of the Landowner and the Engineer.

Any fences paralleling an open ditch that are not line fences that hinder the proper working of the excavating machinery, shall be removed and rebuilt by the Landowner at his own expense.

The Contractor shall not leave fences open when he is not at work in the immediate vicinity.

A.26. Livestock

The Contractor shall provide each landowner with 48 hours notice prior to removing any fences along fields which could possibly contain livestock. Thereafter, the Landowner shall be responsible to keep all livestock clear of the construction areas until further notified. The Contractor shall be held responsible for loss or injury to livestock or damage caused by livestock where the Contractor failed to notify the Landowner, or through negligence or carelessness on the part of the Contractor.

A.27. Standing Crops

The Contractor shall be responsible for damages to standing crops which are ready to be harvested or salvaged along the course of the drain and access routes if the Contractor has failed to notify the Landowners 48 hours prior to commencement of the work on that portion of the drain.

A.28. Surplus Gravel

If as a result of any work, gravel or crushed stone is required and not all the gravel or crushed stone is used, the Contractor shall haul away such surplus material.

A.29. Iron Bars

The Contractor is responsible for the cost of an Ontario Land Surveyor to replace any iron bars that are altered or destroyed during the course of the construction.

A.30. Rip-Rap



Rip-rap shall be quarry stone rip-rap material and shall be the sizes specified in the Special Provisions. Broken concrete shall not be used as rip-rap unless otherwise specified.

A.31. Clearing, Grubbing and Brushing

This specification applies to all brushing where no specific detail is provided on the drawings or in the Special Provisions.

The Contractor shall clear, brush and stump trees from within the working area that interfere with the installation of the drainage system.

All trees, limbs and brush less than 150mm in diameter shall be mulched. Trees greater than 150mm in diameter shall be cut and neatly stacked in piles designated by the Landowners.

A.32. Restoration of Lawns

This specification applies to all lawn restoration where no specific detail is provided on the drawings or in the Special Provisions and no allowance for damages has been provided under Section 30 of the Drainage Act RSO 1990 to the affected property.

The Contractor shall supply “high quality grass seed” and the seed shall be broadcast by means of an approved mechanical spreader. All areas on which seed is to be placed shall be loose at the time of broadcast to a depth of 25mm. Seed and fertilizer shall be spread in accordance with the supplier’s recommendations unless otherwise directed by the Engineer. Thereafter it will be the responsibility of the Landowner to maintain the area in a manner so as to promote growth

END OF DIVISION



DIVISION B

Specifications for Open Drains



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DIVISION B – SPECIFICATIONS FOR OPEN DRAINS

B.1. Alignment

The drain shall be constructed in a straight line and shall follow the course of the present drain or water run unless noted on the drawings. Where there are unnecessary bends or irregularities on the existing course of the drain, the Contractor shall contact the Engineer before commencing work to verify the manner in which such irregularities or bends may be removed from the drain. All curves shall be made with a minimum radius of fifteen (15) metres from the centre line of the drain.

B.2. Profile

The Profile Drawing shows the depth of cuts from the top of the bank to the final invert of the ditch in metres and decimals of a metre, and also the approximate depth of excavated material from the bottom of the existing ditch to the final invert of the ditch. These cuts are established for the convenience of the Contractor; however, bench marks (established along the course of the drain) will govern the final elevation of the drain. The location and elevation of the bench marks are given on the Profile Drawing. Accurate grade control must be maintained by the Contractor during ditch excavation.

B.3. Excavation

The bottom width and the side slopes of the ditch shall be those shown on the drawings. If the channel cross-section is not specified it shall be a one metre bottom width with 1.5(h):1(v) side slopes. At locations along the drain where the cross section dimensions change, there shall be a transitional length of not less than 10:1 (five metre length to 0.5 metre width differential). Where the width of the bottom of the existing ditch is sufficient to construct the design width, then construction shall proceed without disturbing the existing banks.

Where existing side slopes become unstable, the Contractor shall immediately notify the Engineer. Alternative methods of construction and/or methods of protection will then be determined prior to continuing work.

Where an existing drain is being relocated or where a new drain is being constructed, the Contractor shall strip the topsoil for the full width of the drain, including the location of the spoil pile. Upon completion of levelling, the topsoil shall be spread to an even depth across the full width of the spoil.

An approved hydraulic excavator shall be used to carry out the excavation of the open ditch unless otherwise directed by the Engineer.

B.4. Excavated Material

Excavated material shall be placed on the low side of the drain or opposite trees and fences. The Contractor shall contact all Landowners before proceeding with the work to verify the location to place and level the excavated material.

No excavated material shall be placed in tributary drains, depressions, or low areas which direct water behind the spoil bank. The excavated material shall be placed and levelled to a maximum depth of 200 mm, unless instructed otherwise and commence a minimum of one (1) metre from the top of the bank. The edge of the spoil bank away from the ditch shall be feathered down to the existing ground; the edge of the spoil bank nearest the ditch shall have a maximum slope of 2(h):1(v). The material shall be levelled such that it may be cultivated with ordinary farm equipment without causing undue



hardship to the farm machinery and farm personnel. No excavated material shall cover any logs, brush, etc. of any kind.

Any stones or boulders which exceed 300mm in diameter shall be removed and disposed of in a location specified by the Landowner.

Where it is necessary to straighten any unnecessary bends or irregularities in the alignment of the ditch or to relocate any portion or all of an existing ditch, the excavated material from the new cut shall be used for backfilling the original ditch. Regardless of the distance between the new ditch and the old ditch, no extra compensation will be allowed for this work and must be included in the Contractor's lump sum price for the open work.

B.5. Excavation at Existing Bridge and Culvert Sites

The Contractor shall excavate the drain to the full specified depth under all bridges and to the full width of the structure. Temporary bridges may be carefully removed and left on the bank of the drain but shall be replaced by the Contractor when the excavation is complete. Permanent bridges must, if at all possible, be left intact. All necessary care and precautions shall be taken to protect the structure. The Contractor shall notify the Landowner if excavation will expose the footings or otherwise compromise the structural integrity of the structure.

The Contractor shall clean through all pipe culverts to the grade and width specified on the profile.

B.6. Pipe Culverts

All pipe culverts shall be installed in accordance with the standard detail drawings. If couplers are required, five corrugation couplers shall be used for up to and including 1200mm diameter pipes and 10 corrugation couplers for greater than 1200mm diameter pipes.

When an existing crossing is being replaced, the Contractor may backfill the new culvert with the existing native material that is free of large rocks and stones. The Contractor is responsible for any damage to a culvert pipe that is a result of rocks or stones in the backfill.

B.7. Rip-Rap Protection For Culverts

Quarry stone rip-rap shall be used as end treatment for new culverts and placed on geotextile filter material (Mirafi 160N or approved equal). The rip-rap shall be adequately keyed in along the bottom of the slope, and shall extend to the top of the pipe or as directed on the drawings. The maximum slope for rip-rap shall be 1(h):1(v) or as directed by the Engineer.

The Contractor shall be responsible for any defects or damages that may develop in the rip-rap or the earth behind the rip-rap that the Engineer deems to have been fully or partially caused by faulty workmanship or materials.

B.8. Clearing, Grubbing and Mulching

Prior to excavation, all trees, scrub, fallen timber and debris shall be removed from the side slopes of the ditch and for such a distance on the working side so as to eliminate any interference with the construction of the drain or the spreading of the spoil. The side slopes shall be neatly cut and cleared flush with the slope whether or not they are affected directly by the excavation. With the exception of large stumps causing damage to the drain, the side slopes shall not be grubbed. All other cleared areas shall be grubbed and the stumps put into piles for disposal by the Landowner.



All trees or limbs 150mm or larger, that is necessary to remove, shall be cut, trimmed and neatly stacked in the working width for the use or disposal by the Landowner. Brush and limbs less than 150mm in diameter shall be mulched. Clearing, grubbing and mulching shall be carried out as a separate operation from the excavation of the ditch, and shall not be completed simultaneously at the same location.

B.9. Tributary Tile Outlets

All tile outlets in existing ditches shall be marked by the Landowner prior to excavation. The Contractor shall guard against damaging the outlets of tributary drains. Any tile drain outlets that were marked or noted on the drawings and are subsequently damaged by the Contractor shall be repaired by the Contractor at his expense. The Landowner shall be responsible for repairs to damaged tile outlets that were not marked.

B.10. Seeding

The side slopes where disturbed shall be seeded using an approved grass seed mixture. The grass seed shall be applied the same day as the excavation of the open ditch.

Grass seed shall be fresh, clean and new crop seed, meeting the requirements of the MTO and composed of the following varieties mixed in the proportion by weight as follows:

- 55% Creeping Red Fescue
- 40% Perennial Rye Grass
- 5% White Clover

Grass seed shall be applied at the rate of 100 kg/ha.

B.11. Hydro Seeding

The areas specified in the contract document shall be hydro seeded and mulched upon completion of construction in accordance with O.P.S.S. 572.

B.12. Hand Seeding

Placement of the seed shall be of means of an approved mechanical spreader.

B.13. Completion

At the time of completion and final inspection, all work in the Contract shall have the full dimensions and cross-sections specified without any allowance for caving of banks or sediment in the ditch bottom.

END OF DIVISION



DIVISION C

Specifications for Tile Drains



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DIVISION C – SPECIFICATIONS FOR TILE DRAINS

C.1. Pipe Materials

Concrete Tile

Concrete drain tile shall conform to the requirements of the most recent A.S.T.M. specification for Heavy-Duty Extra Quality drain tile. All tile with diameters less than 600mm shall have a pipe strength of 1500D. All tile with diameters 600mm or larger shall have a pipe strength of 2000D.

All tile furnished shall be subject to the approval of the Engineer. All rejected tile are to be immediately removed from the site.

High Density Polyethylene (HDPE) Pipe

All HDPE pipe shall be dual-wall corrugated drainage pipe with a smooth inner wall. HDPE pipe shall have a minimum stiffness of 320 kPa at 5% deflection.

Unless otherwise noted, all sealed HDPE pipe shall have a water tight gasketed bell and spigot joining system meeting the minimum requirements of CSA B182.8. Perforated HDPE pipe shall have a soil tight joining system, and shall be enveloped in non-woven geotextile filter sock.

C.2. Alignment

The Contractor shall contact the Engineer to establish the course of the drain. Where an existing drain is to be removed and replaced by the new drain, or where the new drain is to be installed parallel to an existing drain, the Contractor shall locate the existing drain (including repairing damaged tile caused by locating) at intervals along the course of the drain. The costs of locating shall be included in the tender price.

The drain shall run in as straight a line as possible throughout its length, except that at intersections of other watercourses or at sharp corners, it shall run on a curve of at least 15 metres radius. The new tile drain shall be constructed at an offset from and parallel with any ditch or defined watercourse in order that fresh backfill in the trench will not be eroded by the flow of surface water.

The Contractor shall exercise care not to disturb any existing tile drain or drains which parallel the course of the new drain, particularly where the new and existing tile act together to provide the necessary capacity. Where any such existing drain is disturbed or damaged, the Contractor shall perform the necessary repair at his expense.

C.3. Profile

Benchmarks have been established along the course of the drain which are to govern the elevations of the drain. The location and elevations of the benchmarks are shown on the drawings. Tile is to be installed to the elevation and grade shown on the profiles. Accurate grade control must be maintained by the Contractor at all times.

When installing a drain towards a fixed point such as a bore pipe, the Contractor shall uncover the pipe and confirm the elevation a sufficient distance away from the pipe in order to allow for any necessary minor grade adjustments to be made.



C.4. Excavation

Wheel machine

Unless otherwise specified, all trenching shall be carried out with a wheel machine approved by the Engineer. The wheel machine shall shape the bottom of the trench to conform to the outside diameter of the pipe. The minimum trench width shall be equal to the outside diameter of the pipe plus 100mm on each side of the pipe, unless otherwise specified. The maximum trench width shall be equal to the outside diameter of the pipe plus 300mm on each side of the pipe, unless otherwise specified.

Scalping

Where the depths of cuts in isolated areas along the course of the drain as shown on the profile exceed the capability of the Contractor's wheel machine, he shall lower the surface grade in order that the wheel machine may trench to the correct depth. Topsoil is to be stripped over a sufficient width that no subsoil will be deposited on top of the topsoil. Subsoil will then be removed to the required depth and piled separately. Upon completion, the topsoil will then be replaced to an even depth over the disturbed area. The cost for this work shall be included in his tender price.

Excavator

Where the use of an excavator is used in-lieu of a wheel machine, the topsoil shall be stripped and replaced in accordance with Item C.4.2. All tile shall be installed on 19mm clear crushed stone bedding placed to a minimum depth of 150mm which has been shaped to conform to the bottom of the pipe. The Contractor shall include the costs of this work in his tender price.

C.5. Installation

Concrete Tile

The tile is to be laid with close joints and in regular grade and alignment in accordance with the drawings. The tiles are to be bevelled, if necessary to ensure close joints. The inside of the tile is to be kept clear when laid. The sides of the tile are to be supported by partial filling of the trench (blinding) prior to inspection by the Engineer. No tile shall be backfilled until inspected by the Engineer unless otherwise permitted by the Engineer. The tile shall be backfilled such that a sufficient mound of backfill is placed over the trench to ensure that no depression remains after settling occurs in the backfill.

Where a tile connects to a catch basin or similar structure, the Contractor shall include in his tender price for the supply and placement of compacted Granular 'A' bedding or 19mm clear crushed stone under areas backfilled from the underside of the pipe to undisturbed soil. Where a tile drain passes through a bore pit, the Contractor shall include in his tender price for the supply and placement of compacted Granular 'A' bedding or 19mm clear crushed stone from the underside of the pipe down to undisturbed soil with the limits of the bore pit.

The Contractor shall supply and wrap all concrete tile joints with Mirafi 160N geotextile filter material as part of this contract. The width of the filter material should be:

- 300mm wide for tile sizes 150mm diameter to 350mm diameter.
- 400mm wide for tile sizes 400mm diameter to 750mm diameter.
- 500mm wide for tile sizes larger than 750mm diameter.

The filter material shall completely cover the tile joint and shall have a minimum overlap of 300mm. The type of filter material shall be.



HDPE Pipe

HDPE pipe shall be installed using compacted Granular 'A' bedding or 19mm clear crushed stone bedding from 150mm below the pipe to 300mm above the pipe. All granular material shall be compacted using a suitable mechanical vibratory compactor. Granular bedding and backfill shall be placed in lifts not exceeding 300mm and compacted to at least 95% Standard Proctor Maximum Dry Density (SPMDD).

Where a pipe connects to a catch basin or similar structure, the Contractor shall include in his tender price for the supply and placement of compacted Granular 'A' bedding or 19mm clear crushed stone under areas backfilled from the underside of the pipe to undisturbed soil. Where a pipe passes through a bore pit, the Contractor shall include in his tender price for the supply and placement of compacted Granular 'A' bedding or 19mm clear crushed stone from the underside of the pipe down to undisturbed soil with the limits of the bore pit.

As determined by the Engineer, unsuitable backfill material must be hauled off-site by the Contractor and Granular "B" shall be used as replacement backfill material.

C.6. Trench Crossings

The Contractor shall not cross the backfilled trench with any construction equipment or vehicles, except by one designated crossing location on each property. The Contractor shall ensure that the bedding and backfill material at this designated crossing location is properly placed and compacted so as to adequately support the equipment and vehicles that may cross the trench. The Contractor may undertake any other approved work to ensure the integrity of the tile at the crossing location. The Contractor shall ensure that no equipment or vehicles travel along the length of the trench. The Contractor shall be responsible for any damage to the new tile caused by the construction of the drain.

C.7. Outlet Protection

A tile drain outlet into a ditch shall be either HDPE pipe or corrugated steel pipe and shall include a hinged grate for rodent protection. The maximum spacing between bars on the rodent grate shall be 40mm. All corrugated steel outlet pipes shall be bevelled at the end to generally conform to the slope of the ditch bank.

Quarry stone rock rip-rap protection and geotextile filter material (Mirafi 160N), shall be installed around the outlet pipe and extended downstream a minimum distance of three metres, unless otherwise specified. The protection shall extend to the top of the backfilled trench and below the pipe to 300 mm under the streambed. The protection shall also extend 600mm into undisturbed soil on either side of the backfilled trench. In some locations, rip-rap may be required on the bank opposite the outlet.

Where the outlet occurs at the upper end of an open ditch, the rip-rap protection will extend all around the end of the ditch and to a point 800mm downstream on either side. Where heavy overflow is likely to occur, sufficient additional rip-rap and filter material shall be placed as directed by the Engineer to prevent the water cutting around the protection.

C.8. Catch Basins and Junction Boxes

Unless otherwise noted, catch basins shall be in accordance with OPSD 705.010 and 705.030. The catch basin grate shall be a "Birdcage" type substantial steel grate, removable for cleaning and shall be inset into a recess provided around the top of the structure. The grate shall be fastened to the catch basin with bolts into the concrete. Spacing of bars on grates for use on 600mmX600mm



structures shall be 65mm centre to centre. Spacing of bars on grates for use on structures larger than 600mmX600mm shall be 90mm.

All catch basins shall be backfilled with compacted Granular 'A' or 19mm clear crushed stone placed to a minimum width of 300mm on all sides. If settling occurs after construction, the Contractor shall supply and place sufficient granular material to maintain the backfill level flush with adjacent ground. The riser sections of the catch basin shall be wrapped with filter cloth.

Quarry stone rip-rap protection shall be placed around all catch basins and shall extend a minimum distance of one (1) metre away from the outer edge of each side of the catch basin, and shall be placed so that the finished surface of the rip-rap is flush with the existing ground.

If there are no existing drains to be connected to the catch basin at the top end of the drain, a plugged tile shall be placed in the upstream wall with the same elevations as the outlet tile.

Junction boxes shall have a minimum cover over the lid of 450mm.

The Contractor shall include in his tender price for the construction of a berm behind all ditch inlet structures. The berm shall be constructed of compacted clay keyed 300mm into undisturbed soil. The top of the spill way of the earth berm shall be the same elevation as the high wall of the ditch inlet catch basin. The earth berm shall be covered with 100mm depth of topsoil and seeded with an approved green seed mixture. The Contractor shall also include for regrading, shaping and seeding of road ditches for a maximum of 15 metres each way from all catch basins.

The Contractor shall clean all catch basin sumps after completion of the drain installation. Catch basin markers shall be placed beside each catch basin.

C.9. Tributary Drains

Any tributary tile encountered in the course of the drain is to be carefully taken up by the Contractor and placed clear of the excavated earth. If the tributary drains encountered are clean or reasonably clean, they shall be connected into the new drain in accordance with the typical tile drain connection detail. Tributary tile drain connections into the new drain shall be made using high density polyethylene agricultural drain tubing installed on and backfilled with 19mm clear crushed stone. All tile drain connections into the new drain shall be either a cored hole with an insert coupler or a manufactured tee.

Where the existing drains are full of sediment, the decision to connect the tributary drain to the new drain shall be left to the Engineer. The Contractor shall be paid for each tributary drain connection as outlined in the Form of Tender and Agreement.

The Contractor shall be responsible for all tributary tile connections for a period of one year from the date of the Completion Certificate. After construction, any missed tile connections required to be made into the new drain shall be paid at the same rate as defined in the Form of Tender and Agreement. The Contractor will have the option to make any subsequent tile connections or have the Municipality make the required connections and have the cost of which deducted from the holdback.

Where an open ditch is being replaced by a new tile drain, existing tile outlets entering the ditch from the side opposite the new drain shall be extended to the new drain.

Where the Contractor is required to connect an existing tile which is not encountered in the course of the drain, the cost of such work shall constitute an extra to the contract.



C.10. Clearing, Grubbing and Mulching

The Contractor shall clear, brush and stump trees from within the working area.

All trees or limbs 150mm or larger, that is necessary to remove, shall be cut, trimmed and neatly stacked in the working width for the use or disposal by the Landowner. Brush and limbs less than 150mm in diameter shall be mulched.

Clearing, grubbing and mulching shall be carried out as a separate operation from installing the drain, and shall not be completed simultaneously at the same location.

C.11. Roads and Laneway Sub-Surface Crossings

All roads and laneway crossings may be made with an open cut. The Contractor may use original ground as backfill to within 600mm of finished grade only if adequate compaction and if the use of the original ground backfill has been approved beforehand by the Engineer.

C.12. Filling In Existing Ditches

The Contractor shall backfill the ditch sufficiently for traversing by farm equipment. If sufficient material is available on-site to fill in the existing ditch, the topsoil shall be stripped and the subsoil shall be bulldozed into the ditch and the topsoil shall then be spread over the backfilled waterway. The Contractor shall ensure sufficient compaction of the backfill and if required, repair excess settlement up to the end of the warranty period.

C.13. Construction of Grassed Waterways

Where the Contractor is required to construct a grassed waterway, the existing waterway shall be filled in, regraded, shaped and a seed bed prepared prior to applying the grass seed. The grass seed shall be fresh, clean and new crop seed, meeting the requirements of the MTO.

- 55% Creeping Red Fescue
- 15% Perennial Rye Grass
- 27% Kentucky Bluegrass
- 3% White Clover

Grass seed shall be applied at the rate of 100 kg/ha.

C.14. Unstable Soil

The Contractor shall immediately contact the Engineer if unstable soil is encountered. The Engineer shall, after consultation with the Contractor, determine the action necessary and a price for additions or deletions shall be agreed upon prior to further drain installation.

C.15. Rocks

The Contractor shall immediately contact the Engineer if boulders of sufficient size and number are encountered such that the Contractor cannot continue trenching with a wheel machine. The Engineer shall determine the action necessary and a price for additions or deletions shall be agreed upon prior to further drain installation.



If only scattered large stone or boulders are removed on any project, the Contractor shall either excavate a hole to bury same adjacent to the drain, or he shall haul the stones or boulders to a location designated by the Landowner.

C.16. Broken or Damaged Tile

The Contractor shall remove and dispose of all broken (existing or new), damaged or excess tile off site.

C.17. Recommended Practice For Construction of Sub-Surface Drainage Systems

Drainage Guide for Ontario, Ministry of Agriculture, Food and Rural Affairs, Publication 29 and its amendments, dealing with the construction of Subsurface Drainage Systems, shall be the guide to all methods and materials to be used in the construction of tile drains except where superseded by other Specifications of the Contract.

END OF DIVISION



SPECIAL PROVISIONS

**Bamberg Creek, Jananna, and
Koch-Leis Municipal Drains 2023**



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Special Provisions means special directions containing requirements particular to the work not adequately provided for by the standard or supplemental specifications. Special provisions shall take precedence and govern over any standard or supplemental specification.

1.0 GENERAL

The Contractor shall notify the Landowner, the Drainage Superintendent, and the Engineer 48 hours prior to construction.

The Contractor shall arrange a pre-construction meeting and shall invite the Landowners on whose property work will take place, and the Engineer, and the Drainage Superintendent.

The Contractor shall verify the location of the new drainage system with the Engineer and Landowner prior to construction.

The Contractor shall check and verify all dimensions and elevations and report any discrepancies to the Engineer prior to proceeding with the work.

The Contractor must maintain access to all driveways along the route of the drain as well as always maintain access for all emergency vehicles during the construction.

The Contractor shall be responsible for settlement within the warranty period.

2.0 UTILITIES

All utilities shall be located and uncovered in the affected areas by the Contractor prior to construction.

The locations and elevations of all utilities shown on the drawings are approximate locations. Actual locations and elevations of all utilities must be verified by the Contractor prior to construction.

The Contractor shall arrange to have a representative of the utility owner on site during construction if it is a requirement by the utility owner.

3.0 WORKING AREA AND ACCESS

Access to the working area shall be designated by the Landowner.

3.1 Closed Portion

The average working width for construction purposes shall be 25 metres along the alignment of the proposed drain.

3.2 Open Portion

The working area shall be an average working width of 12 metres for construction purposes along the working side.

4.0 CLEARING BRUSHING AND MULCHING

The Contractor shall clear, brush and mulch trees from within the working area that interfere with the construction of the drainage system. The Contractor shall not clear all trees within the working area unless the full working width in a specific section is required for the installation of the drain and unless the Engineer has authorized the full clearing of the trees.



All trees, limbs, and brush less than 150mm in diameter shall be mulched/chipped. Clearing and brushing shall be done prior to the construction of the drain. Trees and branches greater than 150mm in diameter shall be cut into lengths no greater than four metres and placed in nearby stacks designated by the Landowner. Trees removed from road right-of-ways shall be mulched or disposed of offsite by the Contractor.

5.0 PIPE AND INSTALLATION

5.1 Concrete Field Tile

An approved wheel trencher shall be used to install the concrete field tile whenever possible.

All concrete tile shall be Heavy-Duty Extra Quality Concrete Drain Tile 2000D.

Where the drain is to be installed by means of an approved wheel trencher, the Contractor shall strip the topsoil for the specified width centred on the proposed drain. Where the drain is to be installed by means of an approved hydraulic excavator (due to poor soil conditions), the Contractor shall strip the topsoil for a width equal to the top width of the trench, or the specified width, whichever is greater. The Contractor shall stockpile the topsoil and later spread it over the backfilled trench. The Contractor shall ensure that the top soiled trench is left in a condition such that the landowner can perform final restoration using nothing more than farm equipment. The Contractor will not attempt to place frozen topsoil over the backfilled trench.

Concrete field tile installed by means of a wheel machine shall be backfilled using suitable native material. The backfill shall not be compacted but a sufficient mound shall be left over the trench by the Contractor to allow for settlement flush with adjacent lands.

Concrete field tile installed by means of an approved hydraulic excavator shall be installed using 19mm crushed stone bedding from a minimum of 150mm below the pipe to the springline of the pipe. Suitable native material shall be used as backfill from the springline to the underside of the topsoil.

The Contractor shall supply and wrap all concrete joints with geotextile filter material. The width of the filter material shall be:

- 300mm wide with 300mm overlap for tile sizes up to 350mm diameter.
- 400mm wide with 400mm overlap for tile size 400mm diameter.

The filter material shall completely cover the tile joint.

The Contractor shall be responsible for all trench settlement within the warranty period.

5.2 High Density Polyethylene Pipe (HDPE)

All HDPE pipe shall be CSA B182.8 with gasketed watertight jointing systems.

All HDPE pipe shall be installed using 19mm crushed stone bedding (or approved equivalent) from a minimum of 150mm below the pipe to 150mm above the pipe. Suitable native material shall be used as backfill from 150mm above the pipe to the underside of the topsoil.

The Contractor shall be responsible for all trench settlement within the warranty period.



5.3 Poor Soil Conditions

The Contractor shall submit a unit price for installation of the pipe per the detail on wrapped crushed stone bedding as a provisional item. The provisional amount for installation on wrapped crushed stone bedding shall include the supply and installation of all additional labour, equipment and materials required for the installation of the pipe by this method.

If poor soil conditions are encountered, the Contractor shall install the pipe in accordance with the detail for wrapped crushed stone bedding and shall be entitled to the provisional tender amount, in addition to the tendered standard installation price. The Contractor shall be paid for the actual lengths installed in this condition.

6.0 TOPSOIL STRIPPING AND FINE GRADING

The Contractor shall strip the topsoil along the alignment of the tile drain to a width of four metres. The Contractor shall stockpile the topsoil and later spread it over the backfilled trench. The Contractor shall ensure that the topsoiled trench is left in a condition that the Landowner can perform final restoration using nothing more than farm equipment.

7.0 EXCAVATED MATERIAL

The excavated material from the ditch cleanout shall be spread on the working side to a maximum depth of 200mm in accordance with the typical open ditch cleanout detail included in the drawing set.

8.0 SEEDING

The Contractor shall supply and spread an approved seed mixture (OPS 803 – Lowland Mix) over the disturbed areas.

All seed shall be applied using the manufacturer's application recommendations.

9.0 OUTLET STRUCTURE

The Contractor shall place riprap in the streambed and up the sideslope of Bamberg Creek in accordance with the typical outlet detail included in the drawing set.

10.0 EXISTING DRAINS/TILE CONNECTIONS

The Contractor shall make all tributary tile drain connections.

The Contractor shall be responsible for all tile connections for a period of one year after the issuance of the completion certificate. Tile connections required to be made within this warranty period shall be made at the expense of the Contractor. After construction, the Contractor will be given the option to make any subsequent tile connections or have the Municipality make said connections and have the costs of which deducted from the holdback.

The Contractor shall supply all necessary materials to complete the connections of the existing drains to the new drain. The type of materials used to make the tributary drain connections shall be verified with the engineer.

All existing drains cut off during the installation of the new drainage system that will be connected to the new drainage system shall be flagged or marked by the Contractor prior to the connection being made.



11.0 CATCHBASINS AND JUNCTION BOXES

All catchbasins shall be precast concrete catchbasins and shall have a 300mm sump.

All catchbasin grates shall be fastened to the new catchbasin and shall be hot dipped galvanized bird cage grates. Catchbasin marker signs shall be erected at all catchbasins.

All existing catchbasins that are to be removed shall be disposed of off-site by the Contractor.

The catchbasin grate elevations shall be set to the satisfaction of the Engineer. Lifts shall be placed by the Contractor on all catchbasins if necessary to achieve the desired elevation when field setting the structures.

All catchbasins shall be installed using 19mm crushed stone bedding from 150mm below the structure to 150mm above the top of the highest pipe entering or exiting the structure. Structures within the road allowances shall have 300mm minimum of Granular 'B' backfill around all sides up to the underside of the topsoil layer. Structures on private property shall be backfilled using approved native material up to the underside of the topsoil layer. All backfill material shall be placed and thoroughly compacted evenly around each structure in lifts not exceeding 300mm to minimize settlement around the structures. The Contractor shall be responsible for all settlement around catchbasins. Should the area around the catchbasin settle after construction, the Contractor shall be responsible for providing additional rip-rap required so that the top of the rip-rap is flush with the surrounding ground.

The Contractor shall place quarry stone rip-rap material around all sides of the catchbasin for a width of one metre and shall be placed on geotextile filter material.

All holes for catchbasin pipe connections to be cored by the manufacturer. All pipes entering or exiting a catchbasin or shall be installed such that the face of the pipe is flush with the inside wall of the structure.

The Contractor shall be responsible to repair or reapply mortar for all mortared connections into any catchbasin for a period of one year after the completion certificate has been issued.

12.0 ROAD WORKS

The Contractor shall be responsible to arrange all traffic control signals, signs and devices that are required for safe and proper traffic management during the installation of the drainage system. The Contractor shall contact the Region of Waterloo for specific local procedures, guidelines, and timelines. Traffic control shall meet the standards of Book 7 of the Ontario Traffic Manual.

The Contractor shall grade the road ditches to the new catchbasin. Any disturbed area within the Municipal Right-of-Way during construction shall be topsoiled and seeded with an approved grass seed mixture.

13.0 RIP-RAP

All stone rip-rap material shall be quarry stone 150mm to 300mm diameter and placed to a depth of 300mm, unless otherwise noted. All rip-rap material shall be placed on geo-textile filter material.



14.0 EROSION AND SEDIMENT CONTROL

The Contractor shall provide adequate erosion and sediment control for the duration of construction including monitoring and maintenance of the control measures put in place. The Contractor shall inspect the erosion and sediment control measures regularly, and specifically before predicted rainfall events, and after rainfall events.

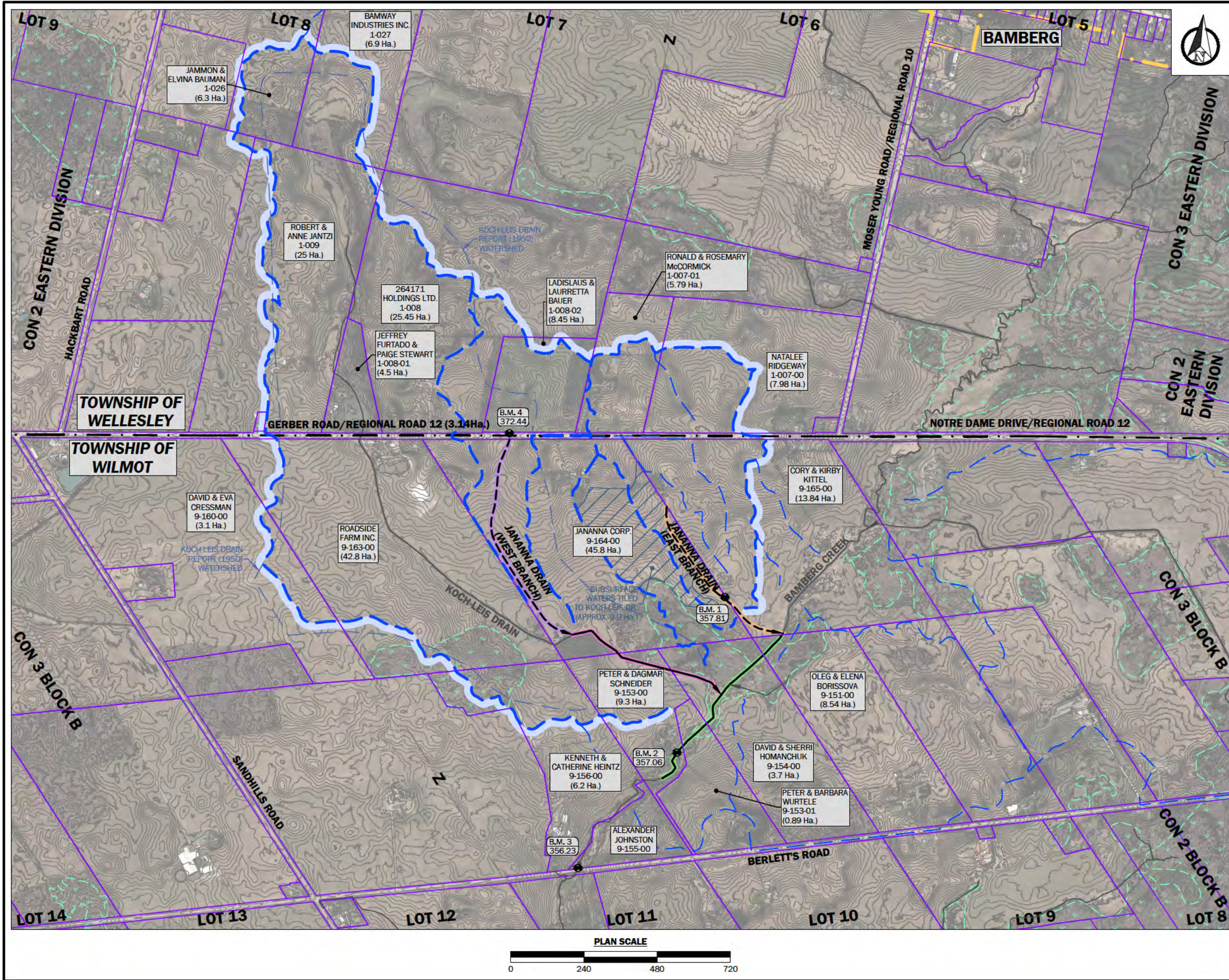
15.0 ENDANGERED SPECIES ACT AND THE EASTERN MEADOWLARK

The Contractor shall review species information made available by the Ministry of Environment, Conservation & Parks (MECP) prior to the start of construction to identify the species should any be observed on site.

The Contractor shall designate a staff member to inspect the daily working area for the species, and their nests prior to the start of any work activities each day. The Contractor shall complete the following daily log of inspections.

Eastern Meadowlark – Daily Inspection Log				
Date	Daily Work Area (Sta. x+xxx to Sta. y+yyy)	Number of Sightings	Comments	Staff Signature

Should an Eastern Meadowlark or its nest be encountered, the Contractor shall immediately flag the location, obtain GPS coordinates of nesting site flags, and notify the Contractor Administrator, and the Site Foreman. The Contractor shall ensure that construction activities are modified to not cause harm to the species, or its nest. The Contract Administrator shall notify the MECP.



NOTES:
1. AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
2. CONTOURS GENERATED USING 2018 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 **ELEV.=357.81**
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA EAST BR.)

BENCHMARK No. 2 **ELEV.=357.06**
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)


BENCHMARK No. 3 **ELEV.=356.23**
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)

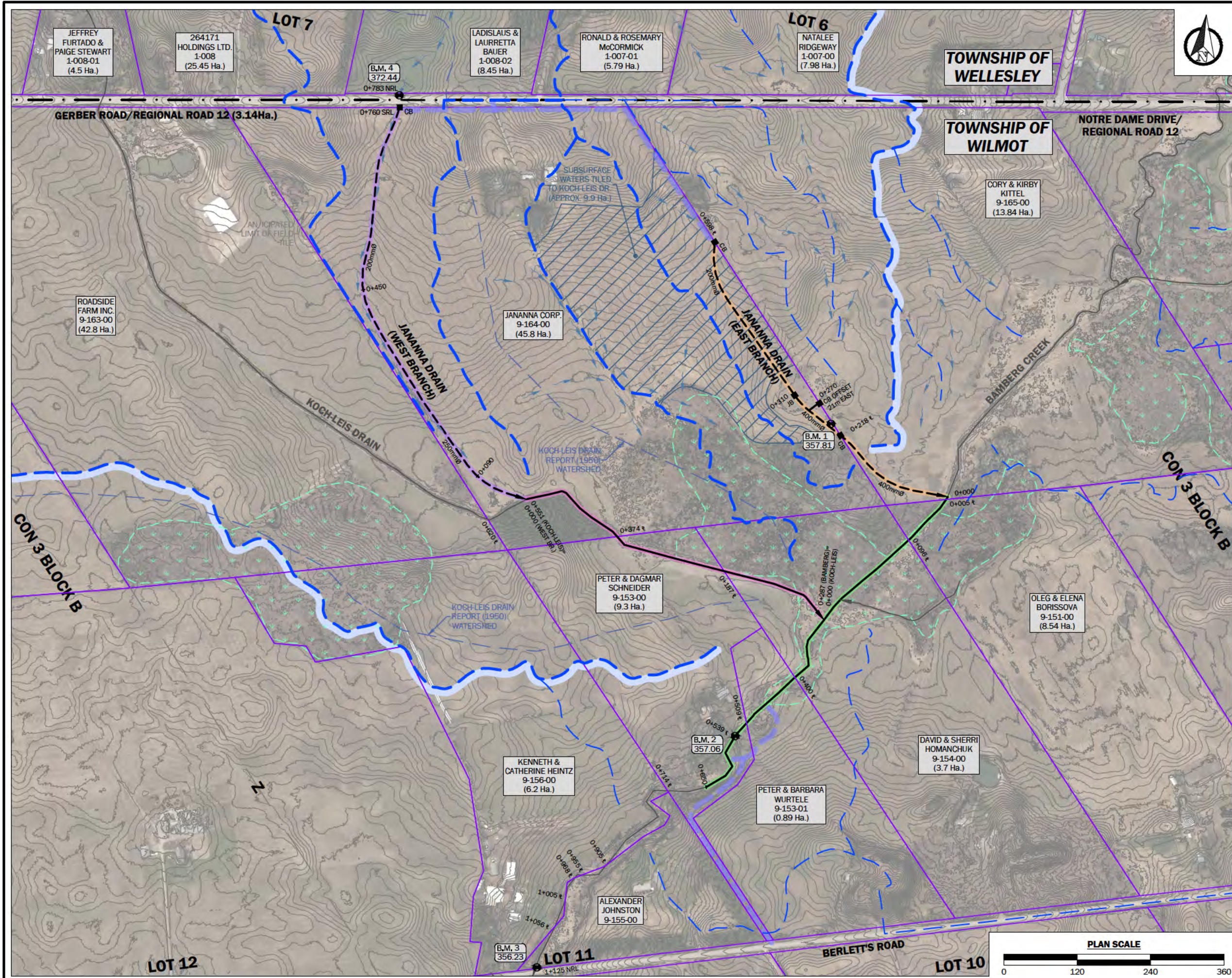
BENCHMARK No. 4 **ELEV.=372.44**
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (JANANNA WEST BR.)

- LEGEND**
- LOT/CONCESSION LINE
 - PROPERTY LINE
 - URBAN BOUNDARY
 - TOWNSHIP BOUNDARY
 - MAJOR WATERSHED BOUNDARY
 - MINOR WATERSHED BOUNDARY
 - WETLAND LIMIT

- BENCHMARK LOCATION**
- B.M. 1 123.45
 - BENCHMARK No.
 - BENCHMARK ELEVATION
 - JOHN & JANE SMITH 12-345
 - LANDOWNER NAME(S)
 - ASSESSMENT ROLL No. (ABBREVIATED)
 - APPROX. AREA AFFECTED

- EXISTING FEATURES:**
- DRAIN NAME OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
 - DRAIN NAME CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
 - OVERLAND FLOW PATH
- PROPOSED FEATURES:**
- DRAIN NAME OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
 - DRAIN NAME CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

	4	REPORT SUBMISSION	23-04-28
	3	KOCH-LEIS INFORMATION MTG.	22-11-24
	2	INFORMATION MEETING	22-09-29
	1	ON-SITE MEETING	21-09-22
No.	REVISION		DATE (YY-MM-DD)



NOTES:
1. AERIAL PHOTOGRAPHY PROVIDED BY WILMOT TOWNSHIP.
2. CONTOURS GENERATED USING 2018 LIDAR DERIVED DATASET REPRESENTING BARE-EARTH TERRAIN FROM LAND INFORMATION ONTARIO.

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TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (JANANNA WEST BR.)

LEGEND

LOT/CONCESSION LINE
PROPERTY LINE
TOWNSHIP BOUNDARY
MAJOR WATERSHED BOUNDARY
MINOR WATERSHED BOUNDARY
WETLAND LIMIT
CONSTRUCTION/MAINTENANCE ACCESS

BENCHMARK LOCATION
B.M. 1
123.45
BENCHMARK No.
BENCHMARK ELEVATION

JOHN & JANE SMITH
12-345
12.3 Ha.
LANDOWNER NAME(S)
ASSESSMENT ROLL No. (ABBREVIATED)
APPROX. AREA AFFECTED

EXISTING FEATURES:
DRAIN NAME (with arrow) OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
DRAIN NAME (with arrow and CB symbol) CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION
OVERLAND FLOW PATH

PROPOSED FEATURES:
DRAIN NAME (with arrow) OPEN DRAIN WITH CROSSING AND FLOW DIRECTION
DRAIN NAME (with arrow and CB symbol) CLOSED DRAIN WITH CATCH BASIN, MANHOLE AND FLOW DIRECTION

	4	REPORT SUBMISSION	23-04-28
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No.	REVISION		DATE (YY-MM-DD)

WARD 2

JANANNA
MUNICIPAL DRAIN

Bamberg Creek and
East Branch Profiles

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 **ELEV.=357.81**
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234
(JANANNA EAST BR.)

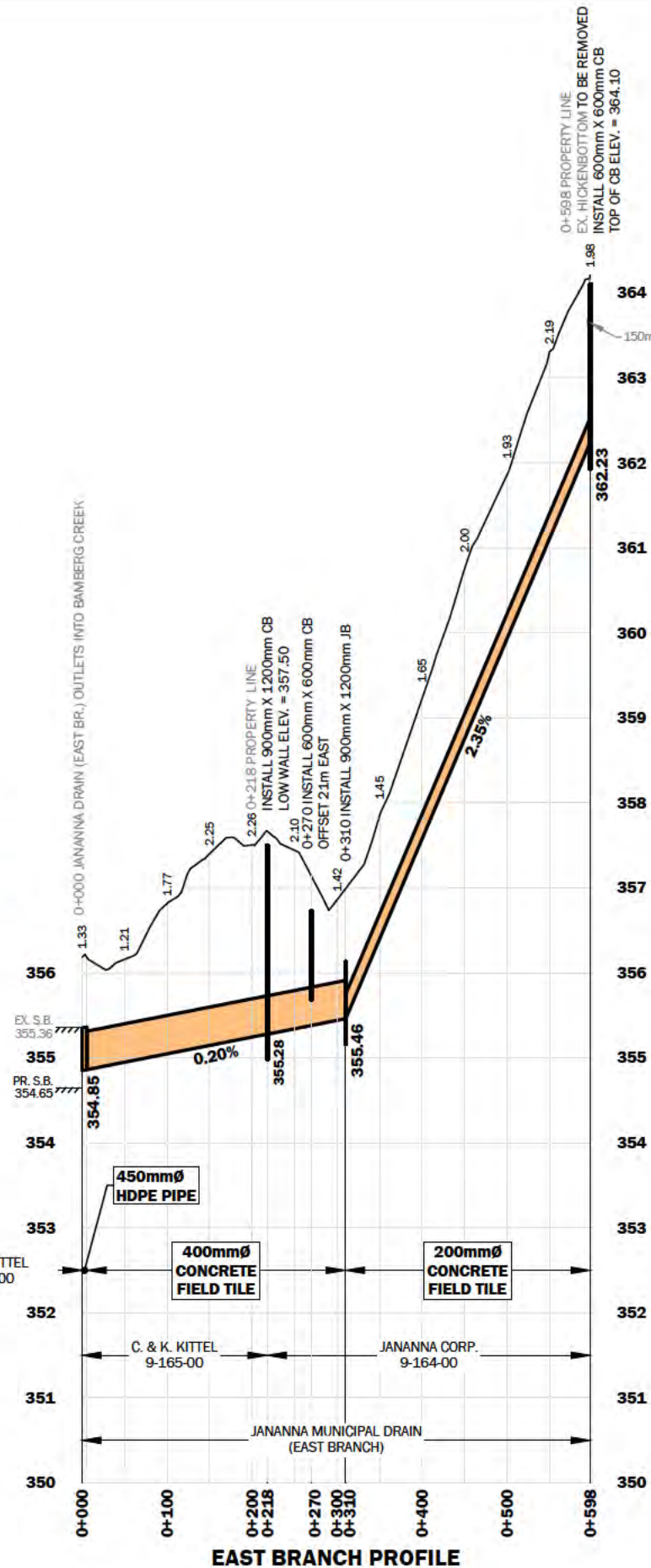
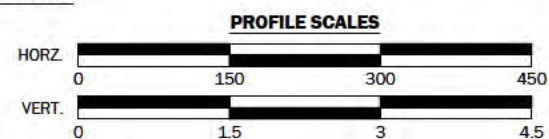
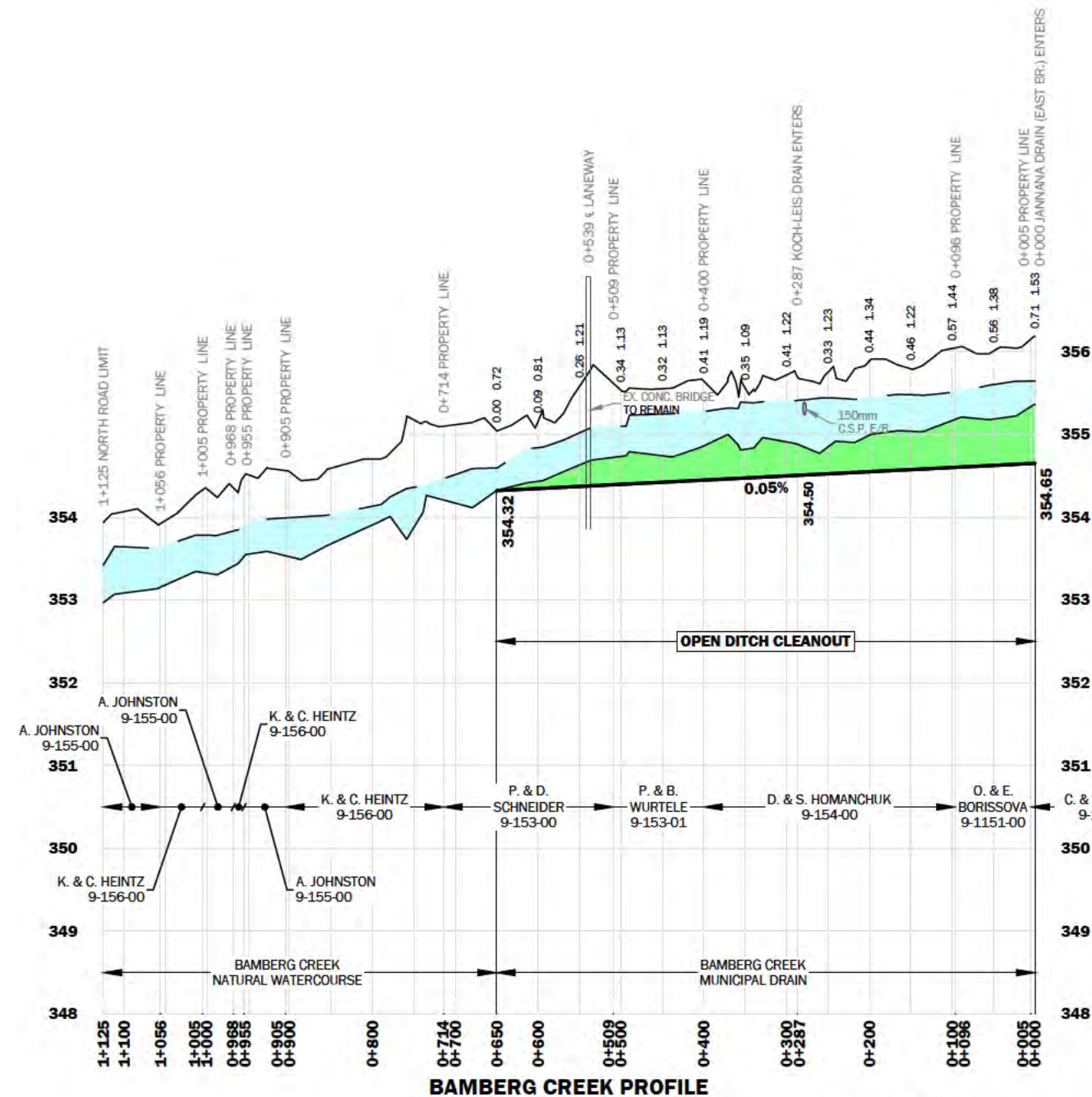
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(BAMBERG)

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TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE
CULVERT AT STA. 0+780 (JANANNA WEST BR.)

SCHEDULE OF PIPE MATERIALS

	MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1.	HIGH DENSITY POLYETHYLENE OUTLET PIPE	450	0+000 - 0+006	6
2.	CONCRETE FIELD TILE	400	0+006 - 0+310	304
3.	CONCRETE FIELD TILE	200	0+310 - 0+598	288

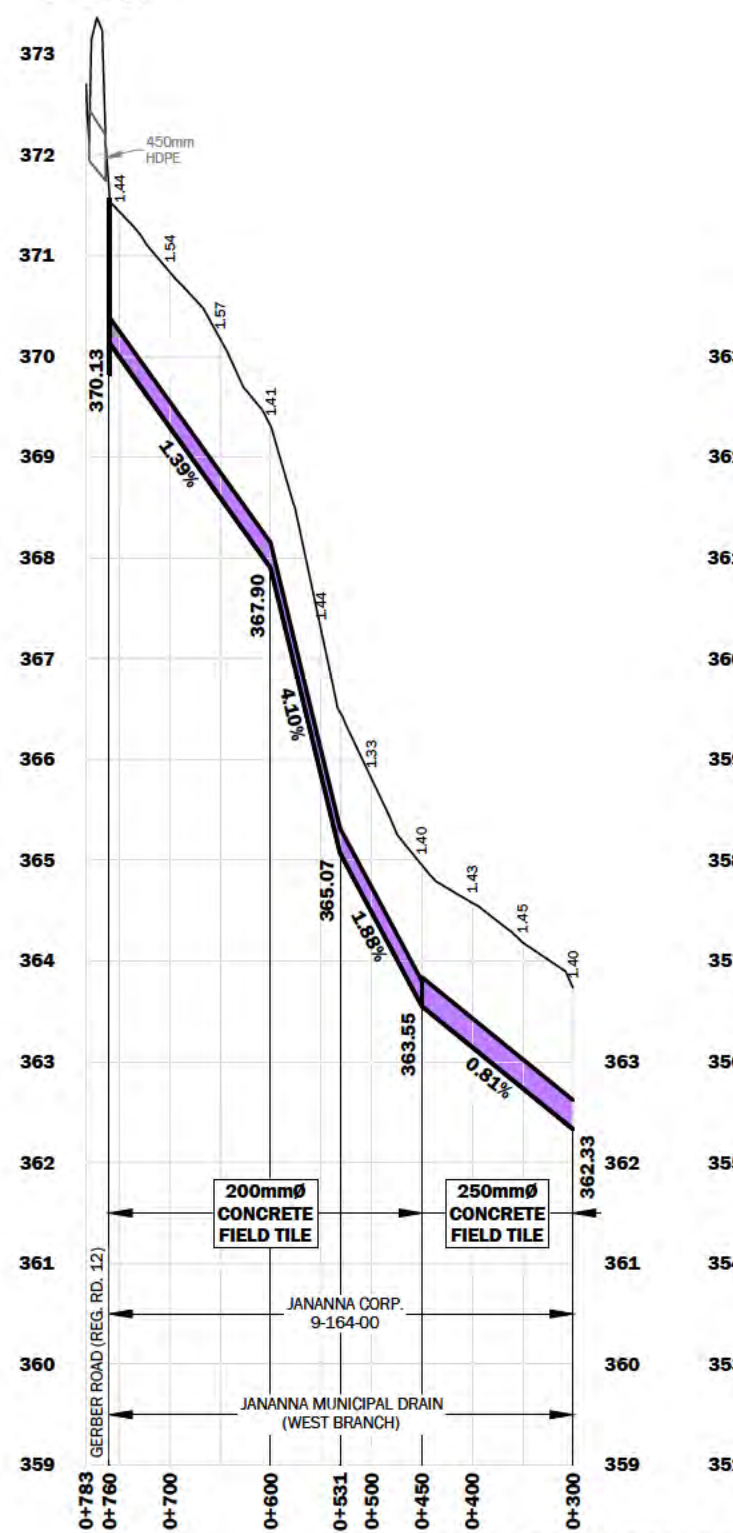


No.	REVISION	DATE (YY-MM-DD)
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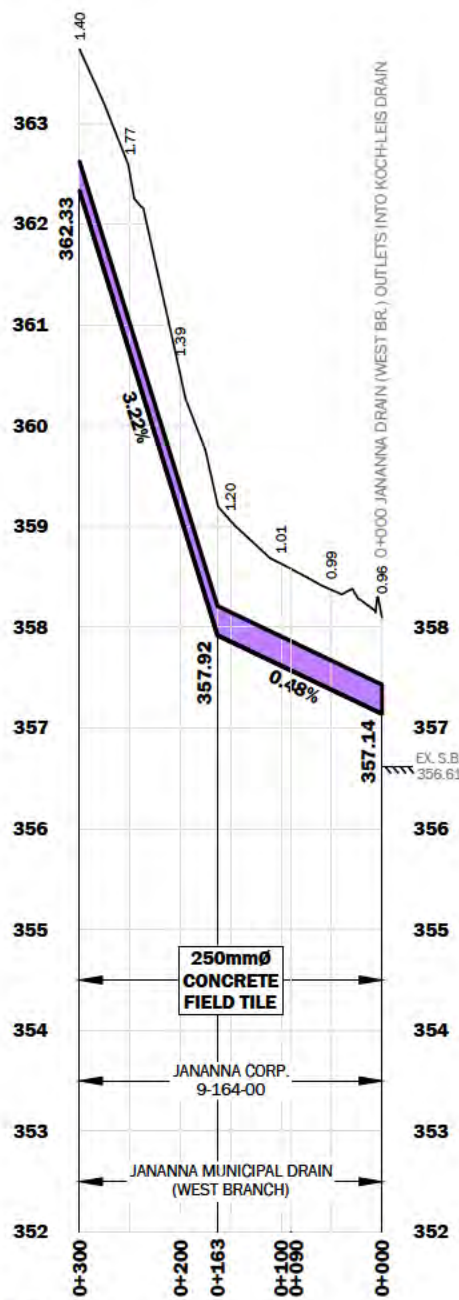


DRAWN BY: R.U.	DESIGNED BY: A.H.	CHECKED BY: S.B.
DATE: 2023-04-28	REFERENCE No. WLMT-002	DRAWING No. 3 OF 6

0+783 NORTH ROAD LIMIT
0+772 GERBER ROAD
(REGIONAL ROAD 12)
0+760 SOUTH ROAD LIMIT
INSTALL 600mm X 600mm CB
TOP OF CB ELEV. = 371.55

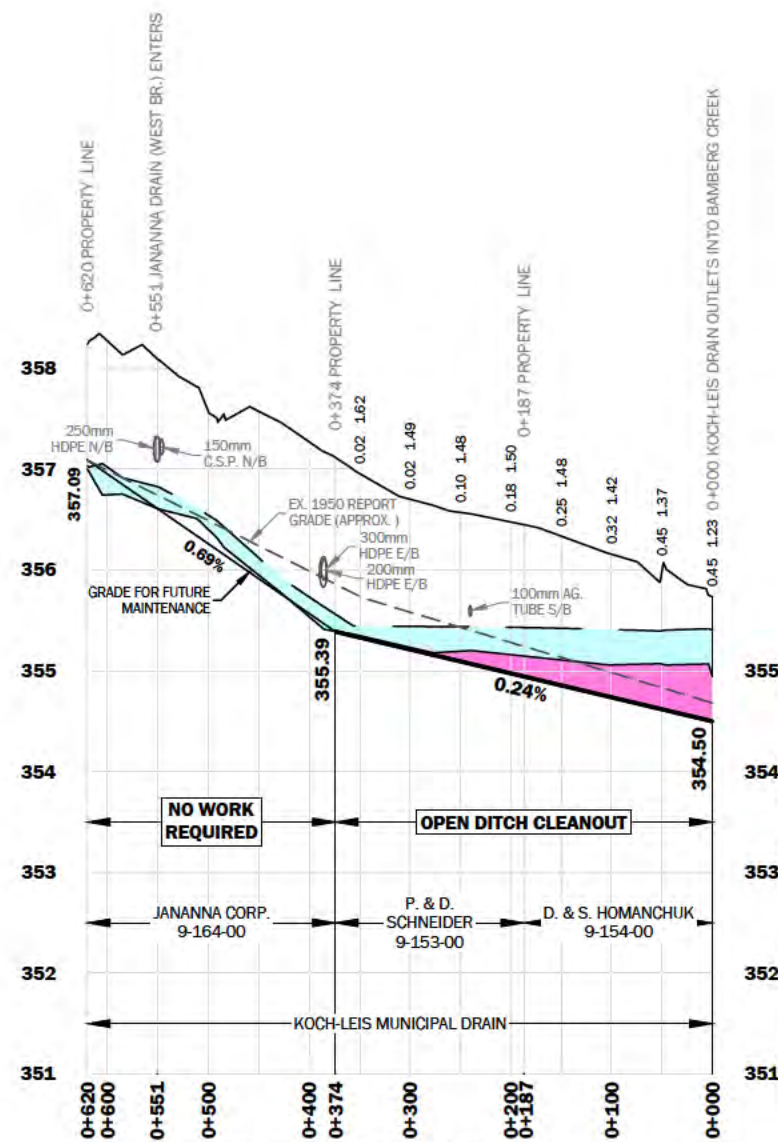


WEST BRANCH PROFILE

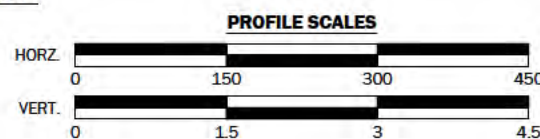


SCHEDULE OF PIPE MATERIALS

MATERIAL	DIAMETER (mm)	STATION RANGE	LENGTH (m)
1. HIGH DENSITY POLYETHYLENE OUTLET PIPE	250	0+000 - 0+006	6
2. CONCRETE FIELD TILE	250	0+006 - 0+450	444
3. CONCRETE FIELD TILE	200	0+450 - 0+760	310



KOCH-LEIS DRAIN PROFILE



JANANNA MUNICIPAL DRAIN

West Branch and Koch-Leis Drain Profiles

BENCHMARK DESCRIPTIONS

BENCHMARK No. 1 ELEV.=357.81
NAIL IN NORTH FACE OF FENCE POST 5m EAST OF STA. 0+234 (JANANNA EAST BR.)

BENCHMARK No. 2 ELEV.=357.06
TOP CENTRE UPSTREAM END OF CONCRETE BRIDGE AT STA. 0+537 (BAMBERG)

BENCHMARK No. 3 ELEV.=356.23
TOP CENTRE UPSTREAM END OF CONCRETE BOX CULVERT AT STA. 1+125 (BAMBERG)

BENCHMARK No. 4 ELEV.=372.44
TOP CENTRE UPSTREAM END OF 450mmØ H.D.P.E. SURFACE CULVERT AT STA. 0+780 (JANANNA WEST BR.)



No.	REVISION	DATE (YY-MM-DD)
4	REPORT SUBMISSION	23-04-28
3	KOCH-LEIS INFORMATION MTG.	22-11-24
2	INFORMATION MEETING	22-09-29
1	ON-SITE MEETING	21-09-22



DRAWN BY: R.U.	DESIGNED BY: A.H.	CHECKED BY: S.B.
DATE: 2023-04-28	REFERENCE No. WLMT-002	DRAWING No. 4 OF 6

WARD 2

**JANANNA
MUNICIPAL DRAIN**

Bamberg Creek Sections

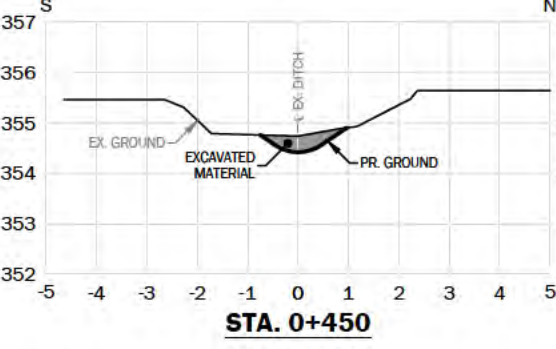
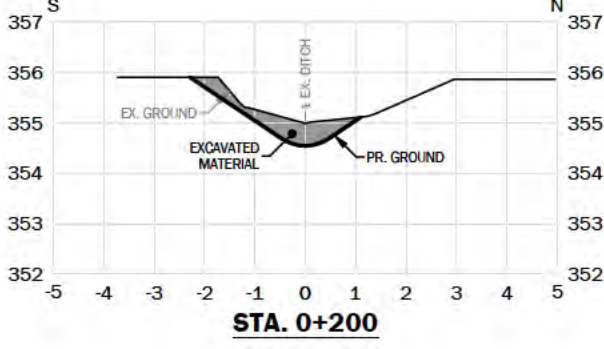
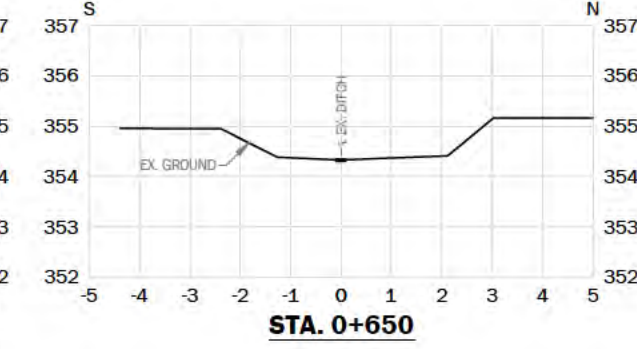
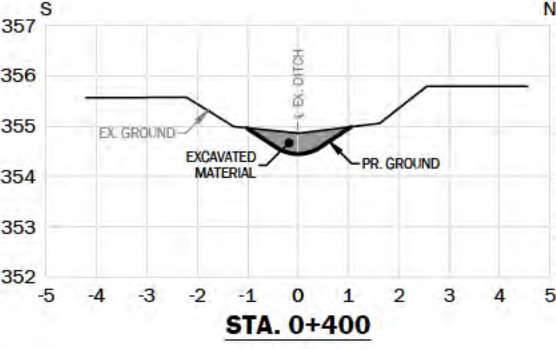
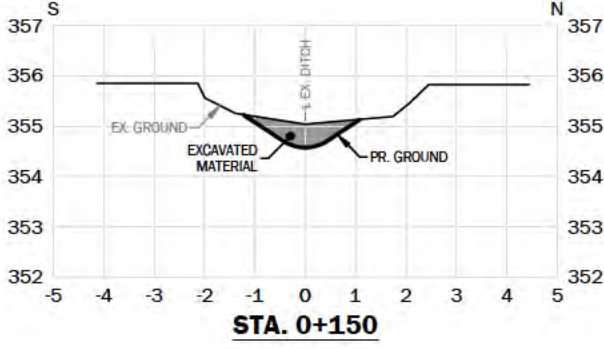
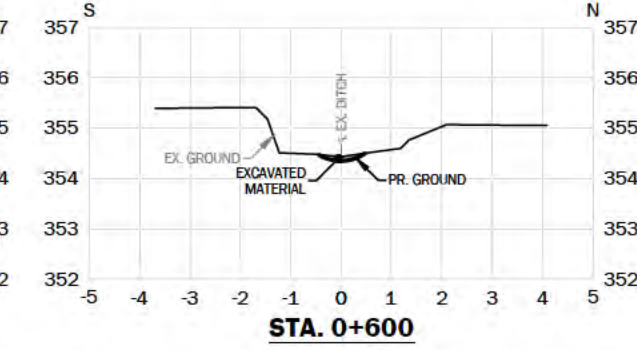
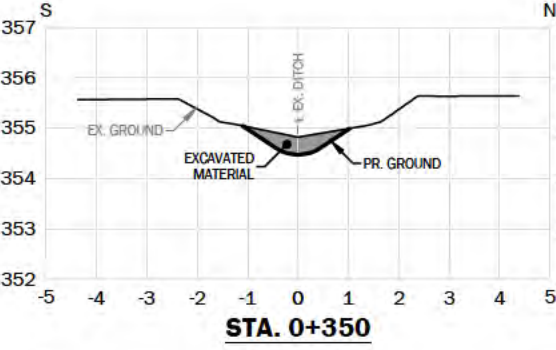
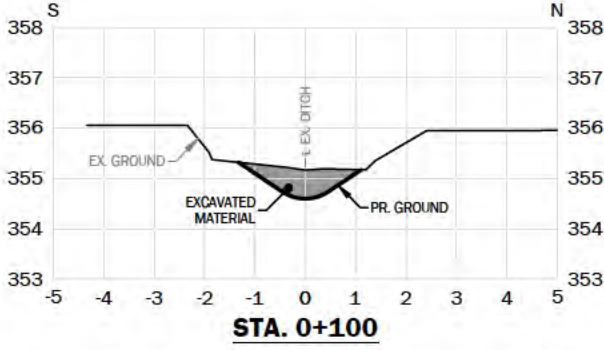
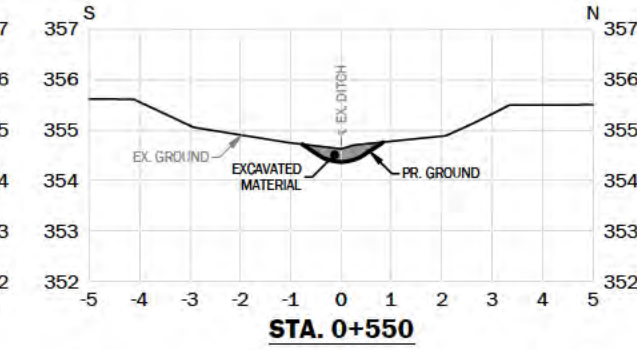
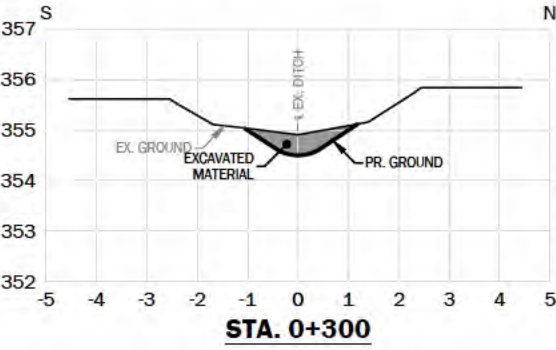
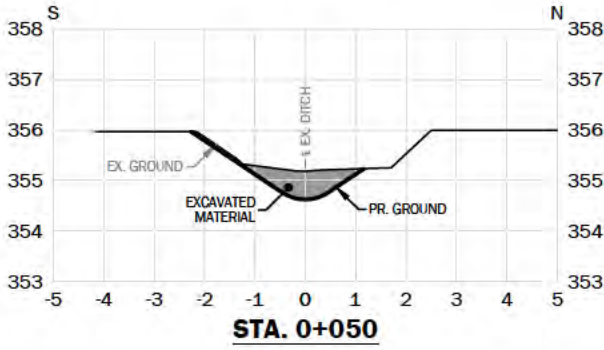
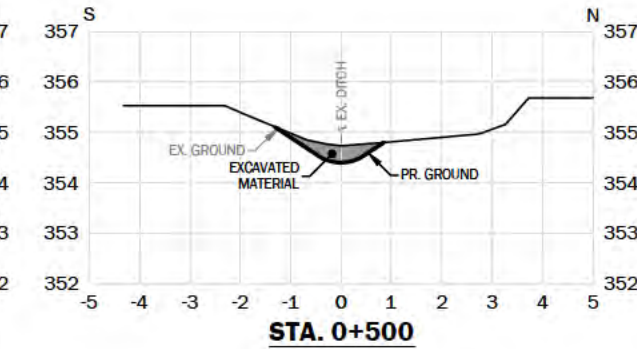
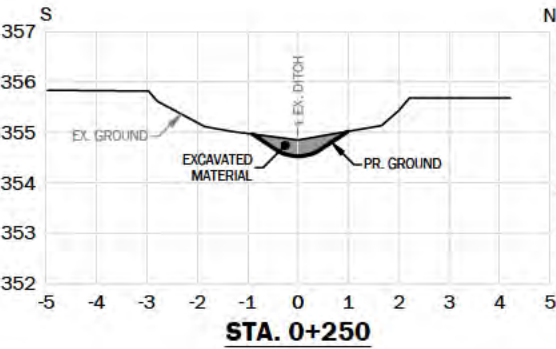
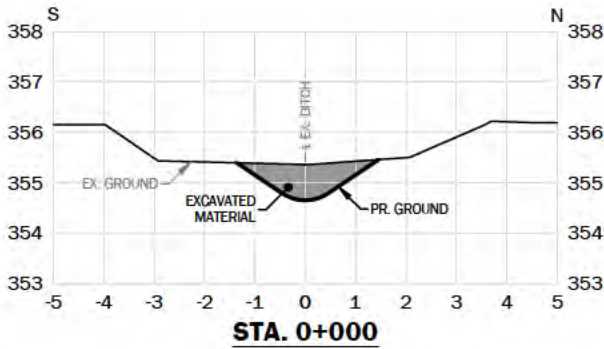
BENCHMARK DESCRIPTIONS

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(JANANNA EAST BR.)

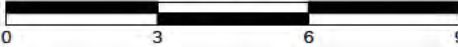
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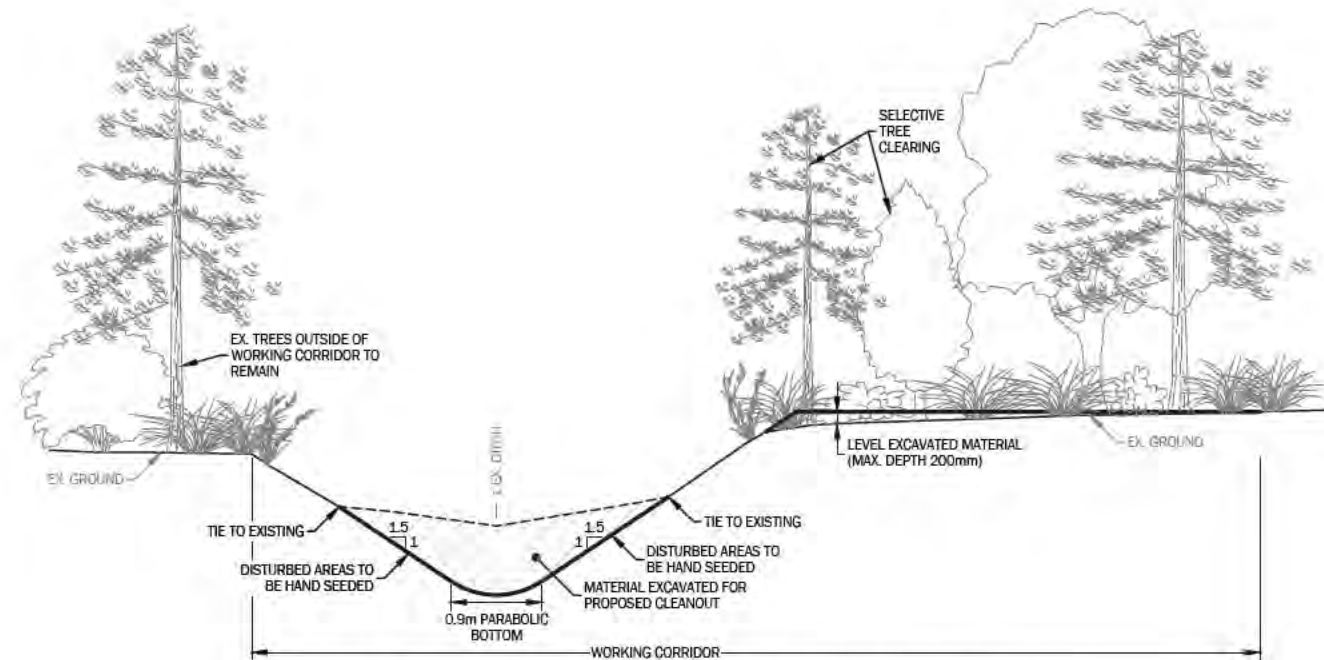
SECTION SCALE



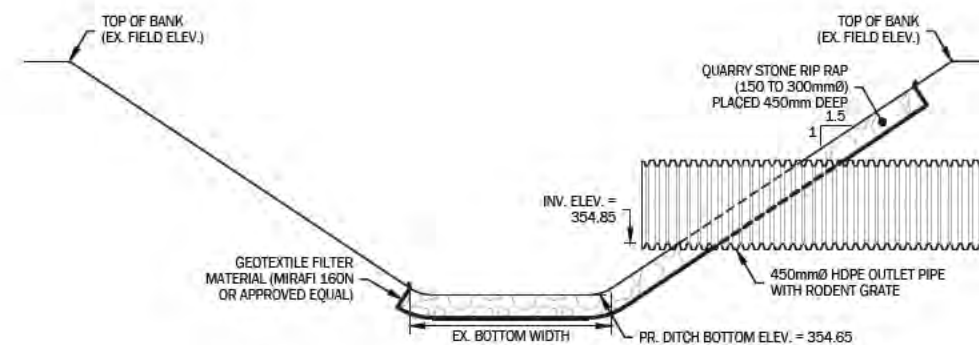
4	REPORT SUBMISSION	23-04-28
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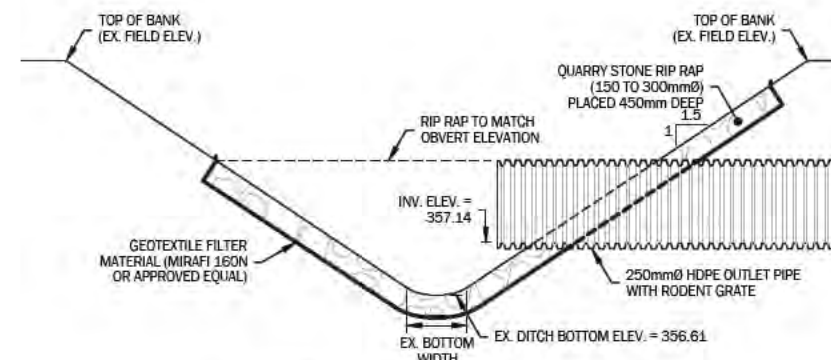
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DATE: 2023-04-28	REFERENCE No. WLMT-002	DRAWING No. 5 OF 6



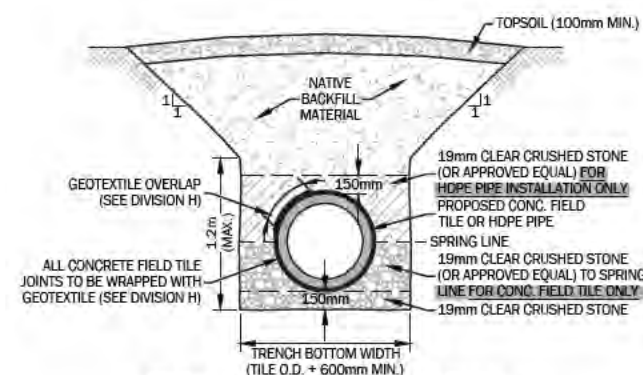
TYPICAL OPEN DITCH CLEANOUT DETAIL (BAMBERG CREEK)
N.T.S.



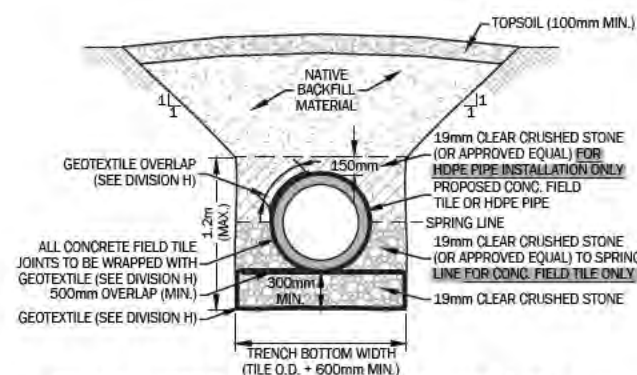
EAST BRANCH OUTLET DETAIL
N.T.S.



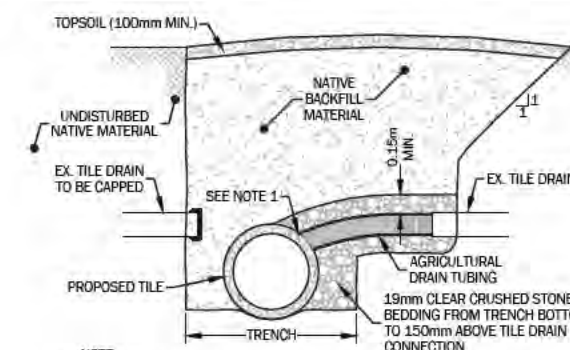
WEST BRANCH OUTLET DETAIL
N.T.S.



TYPICAL PIPE INSTALLATION ON STONE BEDDING DETAIL
N.T.S.



TYPICAL PIPE INSTALLATION ON WRAPPED STONE BEDDING DETAIL (PROVISIONAL ITEM)
N.T.S.



- NOTE:
1. ALL TILE CONNECTIONS TO BE EITHER A CORED HOLE WITH AN INSERT COUPLER, OR A MANUFACTURED TEE.
 2. CLEAR CRUSHED STONE BEDDING NOT REQUIRED IF DUAL WALL HDPE PIPE IS USED FOR THE CONNECTION.

TYPICAL TILE CONNECTION DETAIL
N.T.S.

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Exhibit “**S**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.

[REDACTED]

Commissioner for Taking Affidavits, etc.

Cost / Benefit Analysis

Jananna / Bamberg Creek /
Koch-Leis Municipal Drains

Introduction

After careful review of the Engineer's Report, there is very little detail and little to no evidence or justification as to why the work is necessary and even if there is a problem worth fixing.

No business case is present, no ROI provided to the landowners, no payback period calculated. In a scenario when Township residents are unwillingly being forced to pay for this, shouldn't those basic things be even more critical? Where is the accounting and accountability?

Payback Period

Calculating the financial feasibility of this entire project is actually quite simple. Let's look at this from Jananna's point of view since they are the one requesting this work.

Jananna currently rent their land and make \$300/acre (they don't farm it themselves). This is the top rental rate in this part of Wilmot for systematically tiled fields, which we already established they have. Farmers want multi-year agreements if paying this price. Installing new drains will not bump up this rate because their fields are already tiled so the proposed work will have no impact on their per acre rate, they are already at the top tier. Plus the proposed drainage work is all redundant anyway. Rent will rise naturally through inflation, market demand etc., not because of the proposed drainage work.

We also know the renter is farming all their farmland. **The proposed work will not create any new land to farm.** For the sake of argument though, let's say they unlock one extra acre. That would bring in only an extra \$300 per year in rent revenue.

Their **proposed cost for this project is \$57,441**. Earning an extra \$300/yr, **it would take Jananna over 190 years just to pay back the cost of this project.**

Cost / Benefit

You have an estimated close to \$500k to do the work as outlined. You don't gain any additional farmland. Clearly the crops are growing. However....

You might make the argument that the estimated 1 acre affected area was deemed to not be farmable. Well that 1 acre at the absolute most would be worth about \$35,000. That would assume a 100 acre piece of farmland was worth \$3.5 mm which is likely too high and not realistic.

Based on this the cost benefit would be \$460k+ cost to \$35k benefit.

What other methodology could be used? Land rental of 1 acre per year would be no more than \$300.

You could base the cost on a reduced yield but again that number is in the hundreds of dollars per year.

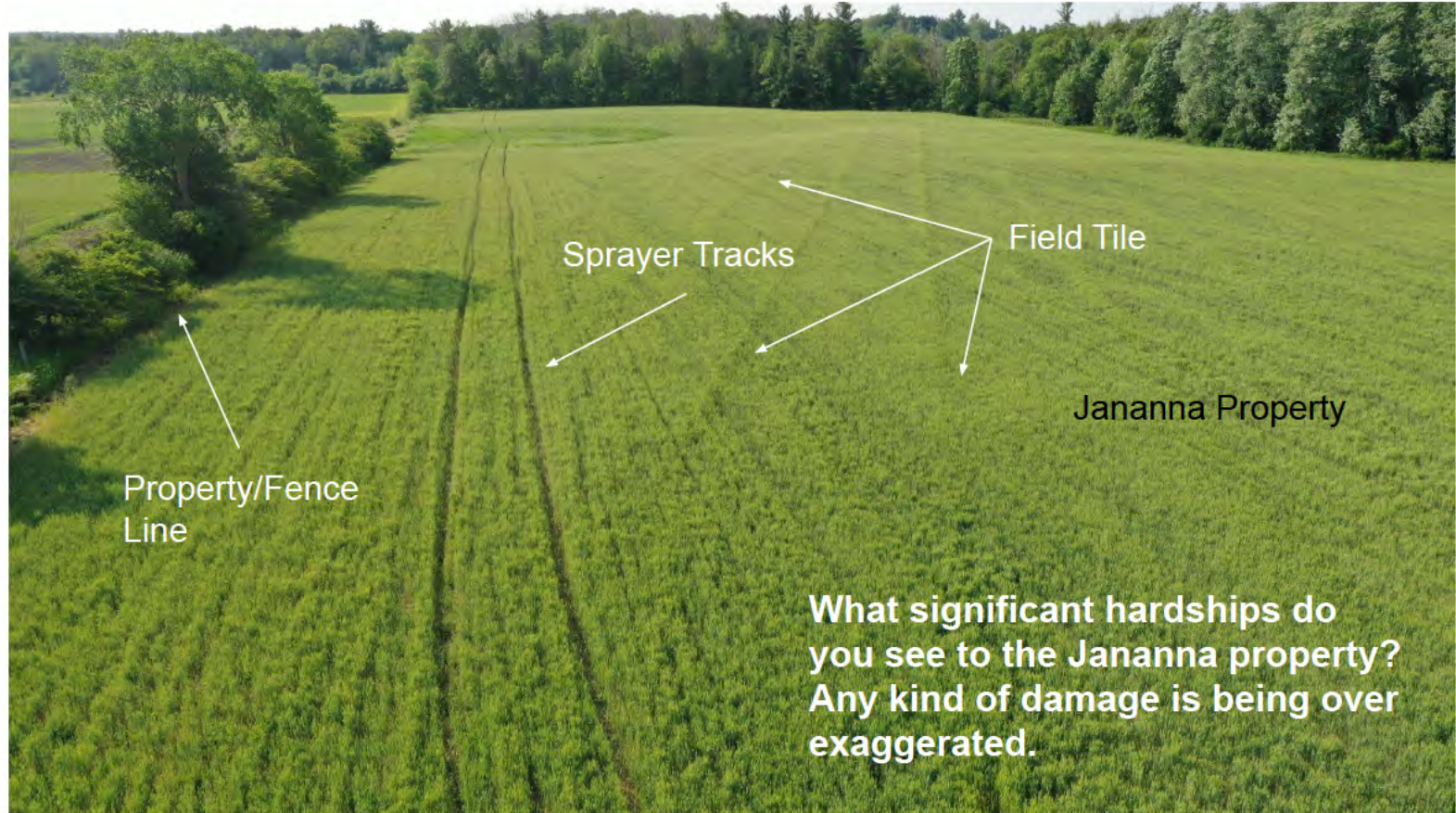
How else do you evaluate the "benefit"? It would certainly be very hard to establish a benefit to the 17 neighbours that somehow exceeded \$500k. Impossible.

This is the low area South East on the petitioner side after a very wet Spring

Photo taken May 25, 2023



East Side of Field - Property Line Pointing South - Photo Taken June 20, 2023



The other major problem is that the entire plan is over-engineered. What justification is there that requires a solution of peak performance standards? Is this what we need **16" industrial sized concrete** tiles for when less expensive options will work just as good? All this money will be spent and these massive oversized tiles will sit in the ground bone dry.



After consulting with three independent drainage contractors, all have suggested this project is over-engineered.

Comparables

The project is grossly overestimated because there is no rationale or evidence of the need or return. The costs **HAVE** to come down. There is no justification. Written estimates for comparable work from drainage professionals using drainage systems and solutions that can be found in 99% of systematic farm drainage systems today show this. The estimates are coming in at a third ($\frac{1}{3}$) of the Engineer's construction costs. For example...

8" Tile @ 288m in length	Material	Installation	Total
Engineer's Report	\$5,760 (concrete)	\$9,216	\$14,976
Comparables	\$2,551 (HDPE)	\$993	\$3,544

16" Tile @ 304m in length	Material	Installation	Total
Engineer's Report	\$10,640 (concrete)	\$10,944	\$21,584
Comparables	\$7,585 (HDPE)	\$1,667	\$9,252

Since landowners are the ones being asked to pay for this, we demand more cost-effective options.

JOB ESTIMATE

NAME: [REDACTED] PHONE: [REDACTED]
 ADDRESS: [REDACTED] NO. OF ACRES TO BE DRAINED: [REDACTED]
 STARTING DATE: [REDACTED]

A job worth doing is worth doing right.

QUANTITY	SIZE	DESCRIPTION	AMOUNT
16,000	6"	filter pipe @ .61' + install @ .24	13,600.00
1,025	6"	filter pipe @ .650' + " @ .30	1,025.00
100	8"	" @ 2.20' + " @ 1.05	375.00
200	10"	" @ 4.20' + " @ 1.15	1,070.00
200	12"	filter pipe @ 5.70' + " @ 1.25	1,465.00
1	12"	outlet pipe @ 210.00	210.00
2	10"	tees @ 65.00	130.00
77	-	connections @ 15.00	1,155.00
1	6"	manhole @ 125.00	125.00
1	18"	manhole @ 500.00	500.00
6.5	6"	6" pipe x 112.00 (galvanized steel)	728.00
1,000	6"	6" pipe @ 1.80 (6" galvanized steel)	1,800.00
1	-	man and safety @	1,000.00
		Subtotal	25,003.00

Footage included: 21 ft. x 100 ft. = 2,100 ft. 42 ft. x 100 ft. = 4,200 ft. 56 ft. x 100 ft. = 5,600 ft. 80 ft. x 100 ft. = 8,000 ft.

CUSTOMER: [REDACTED] DATE: 5-7-23
 ESTIMATED BY: [REDACTED]

THIS OFFER MADE BY THE ESTIMATOR IS BASED ON THE INFORMATION PROVIDED AND DOES NOT
 INCLUDE MATERIALS. THE ESTIMATOR IS NOT RESPONSIBLE FOR MATERIALS WHICH MAY BE DECLINED OR USED.
 UNLESS OTHERWISE NOTED. CONDITIONS APPLY AS TOP THE TERMS AND SPECIFICATIONS.

The Drainage Act

According to **Section 40** of the Drainage Act, the engineer could have determined that the drainage works are impractical and the process could have ended there, but they chose not to do that for whatever reason. How has this project been determined to be practical and financially feasible in any way?

In **Section 32** the engineer had this option.. where, in the opinion of the engineer, the cost of continuing a drainage works to a sufficient outlet or the cost of constructing or improving a drainage works with sufficient capacity to carry off the water will exceed the amount of injury likely to be caused to low-lying lands along the course of or below the termination of the drainage works, instead of continuing the works to such an outlet, or making it of such capacity, the engineer may include in the estimate of cost a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage works, and in the report the engineer shall determine the amount to be paid to the owners of such low-lying lands in respect of such injuries.

Also in **Section 48 (1)(a)** The basis for an appeal and for a project to be halted is when the benefits to be derived from the drainage works are not commensurate with the estimated cost thereof. What benefits have been derived and proven?

Where did the numbers come from?

If people are being forced to pay for this, don't they have the right to know where the numbers came from? No insight has been provided to-date what the benefit and liability assessment numbers are based on. They could have been pulled from thin air for all we know.

A \$460,000+ investment of unwilling landowner and taxpayer dollars into an ALREADY systematic drainage system that looks like this, that only one person wants, where no flooding exists, no farmland reclaimed and no financial benefit or guarantee of any benefit has been proven, is reckless and unethical.



Quick Fact:
A newly installed drain already exists in this location that no mention has been made of in the report and the Engineer was not fully aware of during their site visit. The solution being proposed is redundant.

Examples of where this money could be put to better use and who's impacted

This project is not something to take lightly. It's impacting real people and families in a very negative way, and for what? No one will see any good from it. It's a terrible thing to do to people who are...

- Farmers trying to fix 'actual' drainage problems
- Businesses and farmers who could invest this money in way better things
- Young families trying saving up for their kids education
- Fixed income seniors who are just trying to get by

“(petitioner) must realize that their own concerns may not be those of their neighbours and that the proposal should be viewed for the ‘common economic good’ of the broader ‘watershed community’ ”

omafra.gov.on.ca/english/engineer/facts/88-051.htm

**“Just Because We Can
Doesn't Mean We Should”**

Exhibit "T" to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

RE: Quick Question RE: Jananna Petition

John Kuntze <jkuntze@ksmart.ca>

Tue 2023-06-06 3:55 PM

To: Cory Kittel <[REDACTED]>

Cc: Chad Curtis <chad.curtis@wilmot.ca>

Hi Cory

Determining whether or not a petition is valid under Section 4(1) of the Drainage Act is the responsibility of the appointed Engineer following the on-site meeting as outlined in Section 9(2) of the Drainage Act. The Engineer noted the validity of the petition in Section 2.0 Project Authorization in the report dated April 28, 2023.

A municipality is not required to determine validity of a petition when the petition is filed with the municipality. When a petition is filed the municipality should make sure that the ownership on the petition matches the current assessment roll.

The municipality should also make sure the ownership is shown in the correct category on page 2, ie Sole Ownership, Partnership or Corporation.

When I was contacted by the Gawron family in April 2021 that they wanted to proceed with a petition under the Drainage Act I first confirmed the current ownership of their parcel and made sure that ownership information was correctly entered on page 2 of the petition.

John

From: Cory Kittel <[REDACTED]>

Sent: Tuesday, June 6, 2023 1:30 PM

To: John Kuntze <jkuntze@ksmart.ca>

Subject: Quick Question RE: Jananna Petition

Hey John,

Just a quick question for you. Going back here for a sec , based on the Drainage Act, what made the Jananna petition valid to begin with? I guess that would have been an assessment you would have had to make when they originally filed the petition, is that correct?

Cory
[REDACTED]

Exhibit “**U**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.

[REDACTED]

Commissioner for Taking Affidavits, etc.



Cory Kittel <corykittel@gmail.com>

RE: Clarifying Question of Petition Validity

Brook, Timothy (OMAFRA) <Timothy.Brook@ontario.ca>

Wed, Jun 7, 2023 at 10:45 AM

To: Cory Kittel [REDACTED]

Hi Cory,

In Section 4 of the Drainage Act, the term “lands in the area” refers to the lands in the area requiring drainage. It is how the engineer determines if the petition is valid or not. The engineer needs to determine the area that requires drainage and then compares the properties in that area with the properties that have signed the petition to see if one or more of the criteria in Section 4(1) are met or not.

I have attached both Section 4.6 and Section 4.7 of Publication 852, A Guide for Engineers Working under the Drainage Act. These sections summarize the topics of the area requiring drainage, the petition and some of the case law regarding these topics. The full decisions can be found on www.canlii.org/en/on/ondr as well as other referee decisions.

Sincerely,

Tim

Tim Brook

Timothy R. Brook, M.Sc., P.Eng.

Ministry of Agriculture, Food and Rural Affairs

Drainage Program Coordinator

519-766-3651

From: Cory Kittel [REDACTED]
Sent: Tuesday, June 06, 2023 10:33 PM
To: Brook, Timothy (OMAFRA) <Timothy.Brook@ontario.ca>
Subject: Clarifying Question of Petition Validity

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Hi Tim,

I'm hoping you can help me understand this part of the Drainage Act. I for the life of me can't make sense of it. For the validity of the petition, this is what the engineer referenced in his report.

Petition

4 (1) A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situate by,

- (a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;

"lands in the area" I don't really understand.

I'm also trying to gauge the validity of the original petition when the engineer adds new areas requiring drainage due to the scaling nature of a project which then changes the 'majority in number'.

Cory

2 attachments



852 - Part A, Section 4.7 Case Law Petition.pdf
179K



852 - Part A, Section 4.6 ARD and Petition.pdf
2315K

Exhibit “**V**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

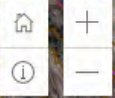
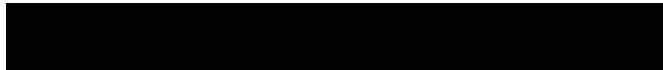


Exhibit "**W**" to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Jananna Property

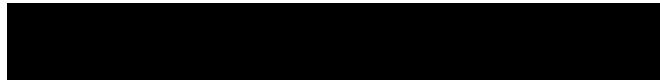
Fence / Property Line

Photo taken by Applicant
March 27, 2023. This is
what the area actually
looks like.

Applicant Property



Exhibit "X" to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Letter to the Mayor and Councillors of Wilmot Township June 8th, 2023

We the undersigned wish to strongly protest the proposal to put in a drainage system on the Jananna lands which would flow into Bamberg Creek and thus transform this natural area into an ecological disaster.

It should be understood that most of the landowners have not been given proper notice of the various meetings to date, especially the farmer who works the majority of the acreage in the area.

Of the 17 landowners involved, only the single petitioner is claiming any benefit to this project.

The Drainage Act specifically requires that "owners that represent at least 60% of the land in the area" be party to any petition for drainage, and that "the owners have made a decision that the drain will be of benefit to them and that the probable cost will be lower than the anticipated benefit". Neither of these requirements have been followed.

No new acreage will be opened up. No crops are currently being adversely affected. The Jananna lands are already extensively tiled. Any cost/benefit analysis just on a strictly financial basis points to a failure on benefit and an unnecessary cost. There would also be perpetual maintenance costs.

Importantly this area has been designated for many years as a Provincially Significant Wetland. Ongoing annual declarations are made by landowners promising "not to undertake any activities that degrade, destroy or result in the loss of the natural heritage feature". This project would destroy the Bamberg Creek PSW and make it a drainage ditch.

This beautiful area has also welcomed the hikers of the Avon Trail Association. A new bridge over the creek was just recently built by volunteers at their expense and dedicated in 2020.

We urgently request that the members of Council and the Mayor come to the site in the next few days for an escorted trip to see for themselves that the land is good as it is. An invitation to you will be made.

This drain proposal does not meet the requirement that the petition must be signed by the majority of the owners in the area requiring drainage or by owners that represent at least 60% of the lands in this area. The cost/benefit requirement is not met. We are asking Council to reject the petition.

SIGNED:





Cory Kittel <corykittel@gmail.com>

Bamberg Creek, Jananna and Koch-Leis Municipal Drain Project

Ken Heintz [REDACTED]

Mon, Jun 12, 2023 at 10:48 AM

To: "natasha.salonen@wilmot.ca" <natasha.salonen@wilmot.ca>, "kris.wilkinson@wilmot.ca" <kris.wilkinson@wilmot.ca>, Lillianne Dunstall <lillianne.dunstall@wilmot.ca>, "harvir.sidhu@wilmot.ca" <harvir.sidhu@wilmot.ca>, "stewart.cressman@wilmot.ca" <stewart.cressman@wilmot.ca>, "steven.martin@wilmot.ca" <steven.martin@wilmot.ca>
Cc: Cory Kittel [REDACTED], Chad Curtis <chad.curtis@wilmot.ca>

Good morning,

Next Monday, June 26th, at the Notice to Consider the Engineer's Report, the Engineer will present their findings and their proposal to address a petition regarding drainage on the Jananna property.

I am writing this email on behalf of the other landowners involved in this project. Of the 16 landowners (not including the petitioner and the Region of Waterloo) only 3 were invited to the initial on-site meeting to hear about and discuss the petitioner's drainage problem. There are so many issues and concerns with the engineer's proposal that we have not had the opportunity to talk about. There have been no meetings to discuss what could be done. The only meetings have been to inform us of what will be done in this overly extensive, expensive and unnecessary project.

For the last 30 years, my husband has farmed all of the land to the south of the petitioners property. He is extremely familiar with the creek and the drains from the northern properties that flow into the creek. We would like to invite you to meet with us in order to look at the site for yourselves to better understand what the engineer is proposing and how it is a complete waste. Their proposal is so extreme and will not accomplish what could be easily fixed by other means. Their proposal will destroy the beautiful Bamberg Creek that has been flowing through our properties for hundreds of years. The petitioner has already had their property systematically tiled. They want to correct the flow of water from a small portion of their land and this could be easily remedied in a more cost effective manner without an engineer and without the extreme destruction of surrounding lands. The engineer's proposal is a gross overstatement of the work that needs to be done.

So, please, meet with us and let us show you, in order to see for yourselves and understand the issue from a farmers perspective, with a conversation that can be easily understood, not engineer diagrams and measurements in a fancy booklet.

I am attaching a letter which has been signed by our group. I hope that you read it. I hope that you think about it. I hope that you can make an informed decision.

We are available to meet you individually or as a group.

Thank you,

Cathy and Ken Heintz

[REDACTED] and [REDACTED]



Landowner Letter Regarding Jananna Drain Project.pdf
623K

Exhibit “Y” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.



Cory Kittel <corykittel@gmail.com>

Visit Follow-Up and Document Update

Cory Kittel [REDACTED]

Fri, Jun 16, 2023 at 2:02 PM

To: Stewart Cressman <cressman@sympatico.ca>, Stewart Cressman <stewart.cressman@wilmot.ca>, kenheintz@hotmail.com, David Marshall <dmarshall@marshallzehr.com>

Hi Stewart,

Thanks again for joining us on-site yesterday. It was a nice morning for a walk :) I think this is truly a project where seeing is believing. I have attached an updated version of the print-out I gave you yesterday. It expands on a few other validity issues related to the project, most of which we talked about.

Thanks again. Please reach out with any questions.

Cory Kittel
[REDACTED]

 **jananna_invalid_petition_061623.pdf**
2029K

Exhibit "Z" to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.

[REDACTED]

Commissioner for Taking Affidavits, etc.

RE: Next Steps - Jananna Drain

John Kuntze <jkuntze@ksmart.ca>

Fri 2023-06-16 1:39 PM

To: Jeff Molenhuis <jeff.molenhuis@wilmot.ca>; Jeff Bunn <jeff.bunn@wilmot.ca>; Patrick Kelly <patrick.kelly@wilmot.ca>; Chad Curtis <chad.curtis@wilmot.ca>

Cc: Stephen Brickman <stephen.brickman@headwayeng.ca>

Hi Jeff and all

As I noted in my email below authority for determining area requiring drainage and validity of the petition is with the Engineer appointed by Council.

Any appeal on the area requiring drainage and validity of petition is to the Drainage Referee as per Section 106(1) (b) of the Drainage Act.

As I noted in my email what Council requires is a good legal opinion on the issues that Cory Kittel is raising before making a decision on how to proceed with the Jananna Drain report.

As an engineer I should not be giving legal opinion on the Drainage Act process.

However, I can provide some information on the Drainage Act process as it relates to the current issue about validity of petition.

As I have noted before Council could decide to not proceed with the Jananna Drain report based on the information being presented by Cory Kittel with reference to the validity of the petition, but this will not necessarily terminate the proceedings under the Drainage Act as Cory Kittel states in his information.

The Jananna petition will only be invalid if the petitioner withdraws from the petition in writing or on an appeal the Drainage Referee decides the petition is invalid.

Council will thus still have a report under the Drainage Act that confirms a valid petition.

The petitioner will thus be able to appeal to the Tribunal under Section 45(2) of the Drainage Act.

I am not sure how the Tribunal will deal with such an appeal as they do not have jurisdiction to determine validity of petition.

The Tribunal could order Council to proceed with the report since no one has appealed the validity of the petition to the Referee or the Tribunal could direct that the petitioner appeal be referred to the Drainage Referee as per Section 119 of the Drainage Act.

Again, I would encourage Council to obtain a legal opinion on the action Council should take with respect to the information Corey Kittel has presented with respect to area requiring drainage and validity of petition.

John

From: Jeff Molenhuis <jeff.molenhuis@wilmot.ca>

Sent: Friday, June 16, 2023 11:05 AM

To: John Kuntze <jkuntze@ksmart.ca>; Jeff Bunn <jeff.bunn@wilmot.ca>; Patrick Kelly <patrick.kelly@wilmot.ca>; Chad Curtis <chad.curtis@wilmot.ca>

Cc: Stephen Brickman <stephen.brickman@headwayeng.ca>

Subject: Re: Next Steps - Jananna Drain

Hi all. I had a call from Steven Martin on this. I think it would be valuable to provide council with a response of information. Steven notes he has a meeting with someone in the drainage area tomorrow.

Jeff Molenhuis, P.Eng.
Director of Infrastructure Services

From: John Kuntze <jkuntze@ksmart.ca>
Sent: Thursday, June 15, 2023 11:46:56 AM
To: Jeff Bunn <jeff.bunn@wilmot.ca>; Jeff Molenhuis <jeff.molenhuis@wilmot.ca>; Patrick Kelly <patrick.kelly@wilmot.ca>; Chad Curtis <chad.curtis@wilmot.ca>
Cc: Stephen Brickman <stephen.brickman@headwayeng.ca>
Subject: RE: Next Steps - Jananna Drain

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Hi Jeff

My apology for being a bit late in replying to this email.

I have attached two emails that I sent to Cory Kittel about the petition and the petition process.
I should have copied you on these emails.

A quick summary

When a petition is filed under Section 4 of the Act it is the appointed Engineer that determines the area requiring drainage as outlined in Section 9(2) of the Act.

It is also the Engineer's responsibility to determine the validity of the petition as per Section 9(2).

Stephen Brickman has attended to these duties as noted in his report.

Cory Kittel and David Marshall can express an opinion on the area requiring drainage and the validity of the petition.

If they feel the area requiring drainage is not proper then they can appeal to the Drainage Referee who deals with issues related to validity of petition. In an appeal to the Referee Cory and David could present their opinion on the area requiring drainage but their opinion would not carry much weight with the Drainage Referee as they would not be considered experts on the Drainage Act. In an appeal they would require a lawyer and an expert witness qualified to give opinion evidence on determining area requiring drainage and validity of opinion. The Referee would then make a final ruling on the area requiring drainage and the validity of the petition.

If you are going to seek a legal opinion I would encourage you to contact Paul Courey, the lawyer that Stephen has mentioned several times, as Paul Courey is very knowledgeable in the Drainage Act and could thus give a quick and sound legal opinion on what Cory Kittel and David Marshall are presenting.

John

From: Jeff Bunn <jeff.bunn@wilmot.ca>
Sent: Wednesday, June 14, 2023 1:51 PM
To: Jeff Molenhuis <jeff.molenhuis@wilmot.ca>; Patrick Kelly <patrick.kelly@wilmot.ca>; John Kuntze <jkuntze@ksmart.ca>; Chad Curtis <chad.curtis@wilmot.ca>
Subject: Fwd: Next Steps - Jananna Drain

Hello all,

Fyi.

John - do you have a response related to section 4.1(a). I can reach out to the solicitor, but thought I would start with you.

Kind regards,
Jeff

Jeff Bunn, CMO

Manager of Legislative Services / Municipal Clerk
Legislative Services | Township of Wilmot | [519-556-0040](tel:519-556-0040)

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-
My work day may look different than your work day. Please do not feel obligated to respond out of your normal working hours

From: Jeff Bunn <jeff.bunn@wilmot.ca>
Sent: Wednesday, June 14, 2023, 1:47 p.m.
To: Kris Wilkinson <kris.wilkinson@wilmot.ca>
Subject: Re: Next Steps - Jananna Drain

Hi Councillor Wilkinson,

Are you free Friday at some point for a call? I can also do next week.

I'm going to flip this to some staff internally and see if the solicitor can provide some advice.

Kind regards,
Jeff

Jeff Bunn, CMO

Manager of Legislative Services / Municipal Clerk
Legislative Services | Township of Wilmot | [519-556-0040](tel:519-556-0040)

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-
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From: Kris Wilkinson <kris.wilkinson@wilmot.ca>
Sent: Wednesday, June 14, 2023 12:05:41 PM
To: Jeff Bunn <jeff.bunn@wilmot.ca>
Subject: Fwd: Next Steps - Jananna Drain

Hi Jeff,

We should connect at some point. Could we get our legal counsel to give an opinion on the validity of section 4.1(a) - the vast majority of assessed land owners are up in arms.

Just want to make sure we do the right thing.

Enjoy the email chain.

Cheers,

Kris Wilkinson

Councillor Ward 2

Township of Wilmot | 519-807-4173

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-
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From: David Marshall <dmarshall@marshallzehr.com>

Sent: Tuesday, June 13, 2023 8:56:59 PM

To: Cory Kittel <[REDACTED]>

Cc: Kris Wilkinson <kris.wilkinson@wilmot.ca>

Subject: Re: Next Steps

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This case law item is very compelling and from 1986. Clearly stated and supports 4 (1) a of the drainage act.

Dave

 **MarshallZehr**
David Marshall CIM
Co-Founder

T 519 342 1000 **X** 221

C 519 589 9261

marshallzehr.com | [email](#)

Broker

MarshallZehr Group Inc. | Mortgage Administration #11955 | Mortgage Brokerage #12453

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On Jun 13, 2023, at 10:52 AM, Cory Kittel <[REDACTED]> wrote:

Dave is 100% correct in all of this. This is a clear cut case. It's simple, clear and undeniable.

All the examples I'm providing are pulled directly out of the "*Guide for Engineers Working under the Drainage Act*". This is the de facto bible that the Engineers work from to help them do their job. With a discovery such as this the Township's mandate is prescribed based on the wording in the Drainage Act and on the signed petition itself.

The case law found in the "*Guide for Engineers Working under the Drainage Act*" contains many many more examples such as this.....

+++

Westendorp v. Elizabethtown (Town), 1986

The best definition of the area requiring drainage that I was able to research appeared in a letter dated November 29, 1929, to the Clerk of the Township of West Williams from Drainage Referee George F. Henderson:

"It is not necessary that there should be a majority of the petition of all those whom the engineer finds to be eventually interested in the drainage work. What you need is in first place a reasonably well defined drainage area, that is, a section of land requiring drainage, and it is this territory which should be described in the area. It is of course not proper to pick out just enough lots to enable a majority, but there should be what I generally speak of as an irregularly shaped saucer with reasonably well defined banks around it. This might be all on one lot, although that is of course a rare case, but the point is that once you have that low lying section of land requiring drainage, it is a majority of the owners in that section that you need for a petition, no matter how many others the Engineer may bring in..."

+++

Cory
[REDACTED]

On Mon, Jun 12, 2023 at 10:50 PM David Marshall <dmarshall@marshallzehr.com> wrote:

All this is extremely compelling and none of us needs to be an engineer or lawyer to interpret what the act says here. It is crystal clear and in plain English.

The point that Cory has made with respect to the "false majority" as clearly explained in his email is in my opinion the most compelling point of all. I don't understand how it could be interpreted any other way than to support our case. The Act is crystal clear.

I am also incredibly thankful that it is clearly outlined how the Township is not responsible for the costs associated with the engineering report. I absolutely don't point any blame at the township or the current council who has inherited this mess.

Now for the less significant but still important arguments.

I would also add that I own three farms and they all have wet areas and even wetlands. Most of the neighbours that I know also have wet areas and/or wetlands on their properties. Imagine if everyone that had a wet area in their farm utilized the drainage Act to have their wetland area drained. That is beyond ridiculous. Every farmer would be bankrupt in trying to pay a portion of the costs to fix each farm.

The GRCA clearly outline PSW areas and I think it is horrible to destroy these protected areas. When I bought my farms I accepted them the way they were. I didn't think to convert bogs and marshes and flood plains into farm fields. They are beautiful and should be protected. My wife and I signed our PSW forms today for one of our farms agreeing to protect 10.26 acres on just one of our farms. It is the right thing to do. I don't want a drainage ditch and concrete pipes!

I look at the cost/benefit here in this example. You have an estimated \$500k in cost to do the work as outlined. You don't gain any additional farmland. Clearly the crops are growing fine. However....

You might make the argument that the estimated 1 acre affected area was deemed to not be farmable. Well that 1 acre at the absolute most would be worth about \$35,000. That would assume a 100 acre piece of farmland was worth \$3.5 mm which is likely too high and not realistic.

Based on this the cost benefit would be \$500k cost to \$35 k benefit.

What other methodology could be used? Land rental of 1 acre per year would be no more than \$300.

You could base the cost on a reduced yield but again that number is in the hundreds of dollars per year.

I am not sure how else to evaluate the "benefit". It would certainly be very hard to establish a benefit to the 17 neighbours that somehow exceeded \$500k. Impossible.

For the above reasons and any other reasons commented on in other letters sent by our group I believe Wilmot can decline this application in good conscience and knowing they are working within the written word and spirit of the Drainage Act.

Sincerely,

Dave Marshall

 [MarshallZehr](https://marshallzehr.com)
David Marshall CIM
Co-Founder

T 519 342 1000 **X** 221

C 519 589 9261

marshallzehr.com | [email](mailto:dave@marshallzehr.com)

Broker

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On Jun 12, 2023, at 9:21 PM, Cory Kittel <[REDACTED]> wrote:

Hey Kris,

Further to this information, this is a snippet pulled from the actual official petition document signed by the petitioners...you can see it for yourself in the copy I sent you.

"After the meeting to consider the final report, if the petition does not comply with section 4, the project is terminated and the original petitioners are responsible for the costs in shares proportional to their assessment in the engineer's report. Drainage Act, R.S.O. 1990, c. D. 17 s. 43."

Their petition does not comply with section 4 as I stated and provided clear evidence earlier. Let's all chat tomorrow at 1pm.

Cory

On Fri, Jun 9, 2023 at 2:15 AM Cory Kittel <[REDACTED]> wrote:

Just one other thing, I've attached the original petition here. It clearly shows the "*area requiring drainage*" encompasses two properties...there is no question.

<image.png>

Cory

On Fri, Jun 9, 2023 at 2:03 AM Cory Kittel <[REDACTED]> wrote:

Hey Kris,

You have to review what I've included below, it's a pretty big deal and you have to talk with Tim Brook at OMAFRA, he's a wealth of information on this subject and is open for any phone calls or emails. I have included him on this thread.

If the original petition is invalid, there should be no path forward for this project. In the Engineer's report he used this part of the Drainage Act to qualify the validity of the petition...

<image.png>

Here's the problem, the Engineer got the '*area requiring drainage*' wrong. He wrongfully assumed the water stops at the petitioner's fence line and therefore "*the area requiring drainage*" magically stops at the fence line. It does not. He picked out a portion of what is in fact a larger distinct basin requiring drainage. You can't do that, it creates a false majority. The lands in the area requiring drainage include two properties – the Jananna property and my own.

This is the drainage basin map courtesy of the GRCA. Any historical satellite imagery will show you the same thing.

<image.png>

Only one of these properties signed the petition, which means that they do not have a majority.

To better understand this you have to read this case law example which is in *Section 4.6 of Publication 852, A Guide for Engineers Working under the Drainage Act*.

<image.png>

This simple illustrated example is also in Section 4.6 of Publication 852, A Guide for Engineers Working under the Drainage Act.

<image.png>

In this case the petition is invalid because the number of owners on the petition is not greater than 50%. I believe this spells it out.

Cory



On Wed, May 31, 2023 at 3:58 PM Kris Wilkinson <kris.wilkinson@wilmot.ca> wrote:

Hi Cory,

I can chat with Tim from OMAFRA sure. If you want to set it up that's fine or I can reschedule out direct.

With regards to the application, based on the report it appears to be valid so the township is at risk. Its also a failure to act that could make the township liable for damages.

Let's chat again over the next few weeks.

Cheers,

Kris Wilkinson

Councillor Ward 2

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-

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From: Cory Kittel <[REDACTED]>
Sent: Monday, 29 May, 2023, 11:31 am
To: Kris Wilkinson <kris.wilkinson@wilmot.ca>
Cc: David Marshall <dmarshall@marshallzehr.com>
Subject: Re: Next Steps

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Hey Kris,

It looks like the clerk got this point wrong...

- If there is no appeal the cost of the Engineer's Report (\$70,300) would have to

be paid from the Township general levy.

I reached out to him about this and this is what he sent me... *Section 43 of the Drainage Act notes that if the petition is determined to not be valid at the conclusion of the **meeting to consider the Report**, then the original petitioners are liable for the cost of the Engineer's Report which the municipality can collect from the petitioners as outlined in Section 43.*

This is what I've been saying about misinformation and where the sources of information have been coming from. Everyone has their own agenda and we appear to be playing by different rule books.

Even on the ontario.ca website for '[Drainage Act appeals](#)' it says appealing at the Ontario Drainage Tribunal does not require a lawyer. It's when things get to the Drainage Referee, a lawyer might be advisable. I think the risk to the Township for a 'No' answer is being overplayed. I think further exploration and alternate sources of information are suggested. Could I recommend an information session with Tim Brooks at OMAFRA? This is part of his job responsibilities.

Cory

On Sun, May 28, 2023 at 10:30 PM Kris Wilkinson
<kris.wilkinson@wilmot.ca> wrote:

Hi Cory,

Thank you for having us out to speak on Friday. I have more information for you after reviewing the staff report for consideration tomorrow night May 29 and reading the drainage report.

Please review the next steps.

After the next public meeting then there would be one more consideration of the report before proceeding and moving to a court of revision. Again, I must reiterate that the Drainage Act is driving this process and the township is put into a tough spot if there is denial and then appeal of the application.

This is the current options in front of us:

On July 12, 2021, Council appointed Headway Engineering to prepare an Engineer's Report

under Section 4 of the Drainage Act. In the Report, the Engineer outlined the history of the

Bamberg Creek, Jananna, and Koch-Leis Municipal Drains

On May 5, 2023, Stephen Brickman, P. Eng., Headway Engineering filed with the Township

Clerk the Bamberg Creek, Jananna and Koch-Leis Municipal Drain Report dated April 28,

2023.

REPORT:

By accepting the Engineer's Report, the Township Clerk will schedule a meeting for

Consideration of the Report, which is scheduled to take in place in June or July, 2023.

At the Consideration of Report meeting, Council can receive a presentation on the report from

the Engineer and receive comments, questions, and other input from affected landowners,

agencies and utilities. At the conclusion of the meeting, Council must provide the opportunity

for property owners to add or remove their name from the petition and then confirm with the

Engineer if the petition submitted remains valid under Section 4 of the Act.

At this stage, Council may decide to:

1. Provisionally adopt the Engineer's Report

- Provisionally adopting the Report by providing first and second reading to a

provisional by-law would signal Council's intent to proceed with the Engineer's

Report and initiates the appeal process, if necessary, under the Act.

2. Refer the report back to the Engineer

- if there appears to be errors in the report or Council believes the report should be

reconsidered for any other reason, Council may refer the report back to the

Engineer.

- The Township's Drainage Superintendent and Township staff advise that the

Engineer's Report is in general conformity with the Drainage Act.

3. Take no action on the Engineer's Report

- Any petitioner could appeal to the Drainage Tribunal the decision of Council to

not proceed with the report under the Drainage Act.

- If there is no appeal the cost of the Engineer's Report (\$70,300) would have to

be paid from the Township general levy.

- Under Section 79 of the Drainage Act the Township would be liable for any

damage claim by an affected landowner due to failure to properly maintain an

existing municipal drain

Call Me if you have any questions.

Cheers,

<image001.png>

Kris Wilkinson

Councillor Ward 2

Township of Wilmot | 519-807-4173

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Exhibit “**AA**” to the Affidavit of Cory Kittel

Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Council Meeting Minutes

Council Meeting

Date: June 26, 2023, 6:00 P.M.

Location: Council Chambers - Hybrid
60 Snyder's Road West
Baden, Ontario
N3A 1A1

Members Present: Councillor S. Cressman
Councillor K. Wilkinson
Councillor H. Sidhu
Councillor L. Dunstall
Councillor S. Martin

Staff Present: Chief Administrative Officer, S. Chambers
Director of Corporate Services/Treasurer, P. Kelly
Director of Infrastructure Services, J. Molenhuis
Supervisor of IT, K. Jeffreys
Manager of Planning and Economic Development, A. Martin
Manager of Finance/Deputy Treasurer, A. Romany
Director of Community Services, C. Catania
Manager of Legislative Services/Clerk, J. Bunn
Administrative Clerk, C. Greenley
Desktop Support Technician, R. Ubhi

1. MOTION TO CONVENE INTO CLOSED MEETING

Councillor L. Dunstall served as Acting Mayor for this meeting.

Moved by: Councillor S. Martin

Seconded by: Councillor S. Cressman

THAT a Closed Meeting of Council be held on June 26, 2023 at 6:00 p.m. in accordance with Section 239(2)(f) of the Municipal Act, 2001 to consider the following:

- Drainage Matter - 239(2)(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Motion Carried

2. MOTION TO RECONVENE IN OPEN MEETING

Moved by: Councillor H. Sidhu

Seconded by: Councillor S. Martin

THAT Council reconvenes in Open Session at 7:00 p.m.

Motion Carried

3. MOMENT OF REFLECTION

Tomorrow, June 27, is Canadian Multiculturalism Day. We recognize and celebrate the many cultural communities that help build a strong and vibrant Canada.

It is essential to enhance the awareness of cultural diversity throughout the Township of Wilmot as we work together to honour the values of equality, mutual respect, and inclusion that make our community a great place to live.

Canada Day is also quickly approaching. Canada Day is a time to celebrate and appreciate the beautiful country we live in and we take a moment to show gratitude for the opportunities and freedoms we enjoy as Canadians.

However, you may choose to recognize July 1, let's be mindful and respectful. Let's continue to work together towards an even stronger and more inclusive Canada.

For more information about events happening in Wilmot through Canada Day weekend, please visit wilmot.ca/CommunityCalendar.

4. TERRITORIAL ACKNOWLEDGEMENT

Councillor S. Cressman read the Territorial Acknowledgement.

5. DISCLOSURE OF PECUNIARY INTEREST UNDER THE MUNICIPAL CONFLICT OF INTEREST ACT

- 5.1 Councillor S. Martin - Correspondence from Gord Mills, New Hamburg Firebirds, Regarding Request for Support (addendum)

Councillor S. Martin declared a Pecuniary Interest on Item 13.7 of the agenda. Please visit [Registry of Disclosure of Pecuniary Interest](#) for further details.

6. ADDITIONS TO THE AGENDA

Item 13.6 - Correspondence from Peter Wurtele Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain

Item 13.7 - Correspondence from Gord Mills, New Hamburg Firebirds, Regarding Request for Support

Item 13.8 - Correspondence from Chrisdtine and Lucy Gawron Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain

Item 13.9 - Correspondence from Kevin Thomason Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain

Item 13.10 - Correspondence from Ron and Rosemary McCormick Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain

Item 14.2 - By- Law 2023-32 Being a By-Law to Provide for Drainage Works for the Construction and Improvement of the Bamberg Creek, Jananna, and Koch-Leis Municipal Drain

Item 14.3 - By-Law 2023-33 Being a By-Law to Confirm the Establishment of a Highway in the Township of Wilmot (Joseph Street road widening)

7. ADOPTION OF THE AGENDA

Moved by: Councillor S. Cressman

Seconded by: Councillor S. Martin

That the Agenda as presented for June 26, 2023, be adopted.

Motion Carried

8. MINUTES OF PREVIOUS MEETINGS

Moved by: Councillor S. Martin

Seconded by: Councillor H. Sidhu

THAT the minutes of the following meetings be adopted as presented:

- June 12, 2023 Regular Council Meeting

Motion Carried

9. PUBLIC MEETINGS

9.1 Bamberg Creek, Jananna, and Koch-Leis Municipal Drain, COR-2023-43

Council appointed Councillor S. Cressman and Councillor K. Wilkinson as members of the Court of Revision scheduled for August 16, 2023.

Stephen Brickman, Headway Engineering, gave a high-level overview of their drainage report.

Council asked and received answers from Mr. Brickman on the following:

- whether mutual agreement options were discussed after petition was filed; and
- reasons that some landowners may not be in favour of the proposed drainage works.

Christine Gawron and Lucy Gawron, Jananna Corporation, spoke in support of their petition for drainage works.

Ted Derry, representing the Avon Trail Association, spoke in opposition of the proposed drainage works. Mr. Derry expressed concerns regarding the integrity of the trail and recently constructed bridge in that area.

Cory Kittel spoke in opposition of the proposed drainage works. Mr. Kittel expressed concerns regarding the validity of the petition.

Peter Wurtele spoke in opposition of and suggested alternatives to the proposed drainage works.

Elena and Oleg Borissov spoke in opposition of the proposed drainage works and expressed a number of their concerns regarding the petition and proposed drainage works.

Acting Mayor L. Dunstall asked if there were any persons in the audience who wished to address Council on this matter.

Landowner Ken Heintz came forward and spoke in opposition of the proposed drainage works. Mr. Heintz expressed concerns regarding the design of and need for the proposed drain.

Council asked and received answers from Mr. Heintz regarding whether he himself farms the lands in question.

Acting Mayor L. Dunstall asked if there were any persons who wished to address Council. There were none.

Acting Mayor L. Dunstall asked a second time if there were any persons who wished to address Council. There were none.

Acting Mayor L. Dunstall asked if there were any petitioners who wished to add or remove their name. There were none.

Moved by: Councillor S. Martin

Seconded by: Councillor H. Sidhu

THAT the Engineer's Report dated April 28, 2023, for the Bamberg Creek, Jananna, and Koch-Leis Municipal Drain for construction of a new closed municipal drain from two locations on the North Part of Lot 10, Concession 3, Block B and extending downstream to its outlet into the Koch-Leis Drain and the Bamberg Creek be considered in accordance with Section 42 of the Drainage Act; and

THAT the by-law 2023-32, as attached to this agenda, be given first and second reading to provisionally adopt the Report if the Report if the petition remains valid after consideration of the Report; and

THAT the date for the Court of Revision be scheduled for August 16, 2023, if By-law 2023-32, as attached to this agenda, is provisionally adopted, with the following two members of Council appointed: Councillor S. Cressman and Councillor K. Wilkinson.

Motion Carried

10. PRESENTATIONS

10.1 2022 Audited Financial Statements, COR 2023-36

Mike Arndt, Graham Matthew Professional Corporation presented the 2022 Audited Financial Statements to Council.

Council asked and received answers on the following:

- equity and liability since the merge of Kitchener-Wilmot Hydro Inc. and Waterloo North Hydro Inc., creating Enova Power Corporation; and
- steps taken by the auditing firm, which are unique to the municipal sector.

Council discussed the amounts of taxes retained by the Township and portions that are paid out to the Region of Waterloo and commented on the 6-year growth comparison.

Moved by: Councillor S. Martin

Seconded by: Councillor S. Cressman

THAT Report COR 2023-36 regarding the 2022 Audited Financial Statements be received for information purposes.

Motion Carried

11. CONSENT AGENDA

Moved by: Councillor H. Sidhu

Seconded by: Councillor S. Martin

THAT Consent Agenda items 11.12, 11.2, 11.3, and 11.4 be approved.

Motion Carried

11.1 Award of Contract – Concrete Sidewalk Replacement, IS-2023-15

THAT Council award RFT 2023-09 Concrete Sidewalk Replacement Program to Chad Hartman Construction of St. Pauls, Ontario as per their tender submitted Thursday June 8, 2023, in the amount of \$66,140.00, plus HST.

11.2 Seniors Active Living Centres Program Grant, CS-2023-14

THAT Report CS 2023-14 regarding the Seniors Active Living Centres Program Grant opportunity be received; and further

THAT Council direct staff to issue a letter of support to Community Care Concepts in conjunction with their grant funding application.

11.3 Interim Control By-laws, DS-2023-13

THAT Report DS 2023-011 be received for information.

11.4 Proposed Streamlining of Approvals Under the Aggregate Resources Act, DS-2023-14

THAT Report DS-2023-14 be received for information.

12. REPORTS - NONE

13. CORRESPONDENCE

13.1 Correspondence from the Township of Wellesley re: Notice of Request for Major Drain Improvements - Paff Drainage Works - Resolution No. 5

- 13.2 Petition regarding proposed Bamberg Creek, Jananna, and Koch-Leis Municipal Drain
- 13.3 Correspondence from Ken Heintz Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain
- 13.4 Correspondence from Landowners Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drainage Works
- 13.5 Correspondence from Cory Kittel re: Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain
- 13.6 Correspondence from Peter Wurtele Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain (addendum)
- 13.7 Correspondence from Gord Mills, New Hamburg Firebirds, Regarding Request for Support (addendum)

Councillor S. Martin declared a conflict on this item. (Councillor S. Martin declared a Pecuniary Interest on Item 13.7 of the agenda. Please visit Registry of Disclosure of Pecuniary Interest for further details.)

Council waived notice in order to consider the correspondence received by Gord Mills, New Hamburg Firebirds. Manager of Legislative Services/Clerk, J. Bunn noted that Council would require two-thirds support to waive notice.

Councillor H. Sidhu brought forward a motion directing Staff to bring a Report to the July 24, 2023, Regular Council Meeting, regarding potential opportunities for the Township to financially support the New Hamburg Firebirds.

Council requested Manager of Legislative Services/Clerk J. Bunn provide an overview of lotteries and associated liabilities.

Moved by: Councillor K. Wilkinson

Seconded by: Councillor S. Cressman

THAT in accordance with Section 7.12.7 of the Rules of Procedure, notice be waved to consider correspondence received by Gord Mills of the New Hamburg Firebirds regarding their request for Council support.

Motion Carried

Moved by: Councillor H. Sidhu

Seconded by: Councillor K. Wilkinson

THAT Staff be directed to prepare a Report for the Regular Council Meeting to be held on July 24, 2023, with potential opportunities for financial support for the New Hamburg Firebirds.

Motion Carried

13.8 Correspondence from Christine and Lucy Gawron Regarding Bamberg Creek, Jananna, and Koch-Leis Municipal Drain (addendum)

13.9 Correspondence from Kevin Thomason Regarding Bamberg Creek, Jananna and Koch-Leis Municipal Drain (addendum)

13.10 Correspondence from Ron and Rosemary McCormick Regarding Bamberg Creek, Jananna and Koch-Leis Municipal Drain (addendum)

14. BY-LAWS

Moved by: Councillor K. Wilkinson

Seconded by: Councillor H. Sidhu

THAT By-Law 2023-23 at item 14.1 as attached to this Agenda be read a third and final time and finally passed in Open Council; and

THAT By-Law 2023-32 at item 14.2 as attached to this Agenda be read for a first and second time, and be brought back to council at a future date for a third reading; and further

THAT By-Law 2023-33 at item 14.3 as attached to this Agenda be read for a first, second and third time and finally passed in Open Council.

Motion Carried

14.1 By-Law 2023-23 Being a By-Law to Provide for Drainage Works for the Construction and Improvement of the Delton Reibling Municipal Drain

14.2 By- Law 2023-32 Being a By-Law to Provide for Drainage Works for the Construction and Improvement of the Bamberg Creek, Jananna, and Koch-Leis Municipal Drain (addendum)

14.3 By-Law 2023-33 Being a By-Law to Confirm the Establishment of a Highway in the Township of Wilmot (Joseph Street road widening) (addendum)

15. NOTICE OF MOTIONS - NONE

16. ANNOUNCEMENTS

Councillor S. Martin made announcement regarding Canada Day celebrations at Norm Hill and the Royal Canadian Legion in Wilmot.

17. BUSINESS ARISING FROM CLOSED SESSION

There was no business arising from Closed Session on this date.

18. CONFIRMATORY BY-LAW

Moved by: Councillor S. Cressman

Seconded by: Councillor S. Martin

THAT the Confirmatory By-Law, as attached to this agenda, be read a first, second and third time, and finally passed in Open Council.

Motion Carried

19. ADJOURNMENT

Moved by: Councillor S. Cressman

Seconded by: Councillor S. Martin

THAT we do now adjourn to meet again at the call of the Mayor.

Motion Carried

**By-law for Municipalities Within a Regional
Municipality, the County of Oxford or The
District Municipality of Muskoka – Form 6**
Drainage Act, R.S.O. 1990, c. D.17, subs. 45(1)

Drainage By-law Number 2023-32

A by-law to provide for a drainage works in the Township of Wilmot
in the Regional Municipality of Waterloo.

Whereas the council of the Township of Wilmot has procured a
report under section 4 of the *Drainage Act* for the construction and improvement
of the Bamberg Creek, Jananna, and Koch-Leis Municipal Drains 2023 drain;

And whereas the report dated 2023/04/28 has been authored by Stephen Brickman, PEng
and the attached report forms part of this by-law;

And whereas the estimated total cost of the drainage works is \$462,900.00 ;

And whereas \$462,900.00 is the amount to be contributed by the Township
of Wilmot for the drainage works.

And whereas (Complete this clause only if other municipalities are being assessed a share of the cost of the project.):

<u>\$419,497.00</u>	is being assessed in the <u>Township</u> of <u>Wilmot</u>
<u>\$43,403.00</u>	is being assessed in the <u>Township</u> of <u>Wellesley</u>
<u></u>	is being assessed in the <u></u> of <u></u>
<u></u>	is being assessed in the <u></u> of <u></u>

And whereas the council is of the opinion that drainage of the area is desirable;

Therefore the council of the Township of Wilmot
pursuant to the *Drainage Act* enacts as follows:

1. AUTHORIZATION

The attached report is adopted and the drainage works is authorized and shall be completed as specified in the report.

2. BORROWING

The Corporation of the Township of Wilmot
may borrow on the credit of the Corporation the amount of \$462,900.00 being the amount necessary for
the construction and improvement of the drainage works.

This project will NOT be debentured.

3. DEBENTURE(S)

The Corporation may arrange for the issue of debenture(s) on its behalf for the amount borrowed less the total amount of:

- (a) grants received under section 85 of the *Drainage Act*;
- (b) monies paid as allowances;
- (c) commuted payments made in respect of lands and roads assessed with the municipality;
- (d) money paid under subsection 61(3) of the *Drainage Act*; and
- (e) money assessed in and payable by another municipality.

4. PAYMENT

Such debenture(s) shall be made payable within _____ years from the date of the debenture(s) and shall bear interest at a rate not higher than 2% more than the municipal lending rates as posted by Infrastructure Ontario on the date of sale of such debenture(s).

- (1) A special equal annual rate sufficient to redeem the principal and interest on the debenture(s) shall be levied upon the lands and roads as shown in the schedule and shall be collected in the same manner and at the same as other taxes are collected in each year for _____ years after the passing of this by-law.
- (2) For paying the amount _____ being the amount assessed upon the lands and roads belonging to or controlled by the municipality a special rate sufficient to pay the amount assessed plus interest thereon shall be levied upon the whole rateable property in the Township of Wilmot in each year for _____ years after the passing of this by-law to be collected in the same manner and at the same time as other taxes collected.
- (3) All assessments of _____ or less are payable in the first year in which the assessments are imposed.

5. SCHEDULE OF ASSESSMENTS OF LANDS AND ROADS

in the Township _____ of Wilmot

Property Description				Equal Annual Rate to be Imposed
Lot or Part Lot No.	Concession	Geographic Township	Parcel Roll No.	
Total				

6. CITATION

This by-law comes into force on the passing thereof and may be cited as the
" Bamberg Creek, Jananna, Koch-Leis M by-law".

First reading 2023/06/26

Second reading 2023/06/26

Provisionally adopted this 26 day of June, 20 23

Name of Head of Council (Last, First Name)

Salonen, Natasha

Signature

Name of Clerk (Last, First Name)

Bunn, Jeff

Signature

Third reading _____

Enacted this _____ day of _____, 20 _____

Name of Head of Council (Last, First Name)

Signature

Name of Clerk (Last, First Name)

Signature

I, _____
clerk of the Corporation of the Township of Wilmot,
certify that the above by-law was duly passed by the council of the Corporation and is a true copy
thereof.

Name of Clerk (Last, First Name)

Signature

Exhibit “**BB**” to the Affidavit of Cory Kittel

Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.

Follow-Up to Monday Meeting to Consider

Cory Kittel - [REDACTED] Fri, Jun 30, 2023 at 2:40 PM
To: Kris Wilkinson <kris.wilkinson@wilmot.ca>
Cc: Ken Heintz [REDACTED], Ken and Cathy Heintz [REDACTED], David Marshall
<davidmarshall1969@gmail.com>, Oleg Borisov [REDACTED], Peter Wurtele [REDACTED],
Barbara Wurtele [REDACTED], David Marshall <dmarshall@marshallzehr.com>, Elena Borissova
[REDACTED]

Hi Kris,

I think we just needed to take a few days to digest the outcome of Monday's meeting, but now it's time to follow-up and dig into the details of the decision made.

Correct me if I'm wrong, but was this your first real test representing a large number of your constituents in Ward 2? I think you heard loud and clear where the majority stand on this issue.

Like you said Kris, we're just after the right decisions. If you could provide us some insight into how Monday's decision was the right one and how it came to be, we all might feel a bit better. It appeared the decision made was a confident one, so it should be easy to explain since it was clearly determined before the public meeting what the outcome would be. Part way through the open meeting you could see nobody on council was asking questions, not even of the Engineer who presented nothing of substance regarding the big issues. I think our concerns were loud and clear ahead of the meeting, so how come the Engineer was not put to task?

I personally am still trying to unpack and make sense of the few details you provided at the end of the meeting. It was clearly nothing that came from or backed by the Engineer's report or presentation.

Can you please try to re-explain what you said during the meeting?

How do you feel the original petition remained valid and only requires one signature?

I also wanted to ask how the vetting of the lawyer went, whose advice was taken to the letter. What vetting was conducted? Was there any potential conflicts with the Engineer and Township Drainage Superintendent who clearly have an agenda to advance these works regardless of validity.

I think what we're looking for at this stage is simply an explanation, openness and transparency. I think that at least we are owed.

I've included our smaller working group here, but the larger group is eagerly awaiting answers as well.

Cory
[REDACTED]

This was an email sent after the meeting to get more information and clarification regarding the decision.

There was no response received from this email so the Applicant followed up via text on July 4 and did receive a response July 6.

< KW
Kris

Thu, Jul 6, 11:37 AM

Hi Cory, I got your email. Not sure I can speak too much to it. In essence the application is seen as valid and the townships best position was to advance it

The best course of action is to pursue appeal via tribunal or referee

Hey Kris, who could best explain how Council got to that decision? Based on the legal and technical merits of the validity concerns, who can walk us through it. I thought the lawyer was to explain all this.

Lawyer gave us advice in a closed session. I was mistaken when I mentioned he would give a public overview.

In essence the Act is designed in a way that gives the Engineer quasi judicial powers and essentially makes the call on the petition being valid.

The Act also protects petitioners from having the petition quashed

Which is basically why 4.1 doesn't apply with multiple land owners.

Case law is full of quashed petitions and engineers making mistakes

The township is truly an administrative tool for the Act. Its unfortunate the situation it puts the township in.

But the costs to deny it and appeal and the potential for liability make it an untenable position for the township

We don't decide validity and we don't decide technical aspects. That's was made extremely clear by legal advice

I would agree except where the petition is invalid

Text communication
between Applicant
and Township
Councillor K.
Wilkinson

And that's what needs to be taken up with the tribunal or referee and would need supporting evidence from another professional.

The validity of the petition in this case is that the land owner submitting the petition is entitled to Drainage. The costs grew because under the section I had quoted, it outlines that the Engineer has to cure the overall problem not pass it on

That's why the multiple owners don't apply according to legal advice

Well if that were the case there would be no appeals, tribunals, referees, case law.... the Guide Book also says differently.

Correct. However, that's not for the township to interpret or try and handle. I personally think you've got something to build on. That being said, you should seek legal and engineer opinions

Case law is law and all these scenarios, just like mine, have already been determined.

Thu, Jul 8, 10:36 PM

Hey Kris, above you mentioned 'a section you quoted'. What section are you referring to?

btw - thanks for getting back to us on this stuff. It helps to get some insight.

Fri, Jul 7, 9:05 AM

I'm happy to help. I wish I could just make this easy for you guys without having to balance the big picture side of it.

I'm at my office this morning so I'll get you thr section from my notes when I get home

Fri, Jul 7, 2:50 PM

That would be great. Thanks.

Mon, Jul 10, 5:29 PM

Kris, any references or notes would be helpful. Was there a report provided?

Wed, Jul 12, 12:58 PM

Hi Cory, I can't discuss the details of a closed meeting. What I can do is point you to section 32 - which is why the project grew. Also the Engineer is granted quasi judicial powers. They essentially determine validity.

Sorry for the delay

Tue, Jul 18, 1:47 PM

Are you sure that's the right section? I'm aware of section 32. It basically says the engineer can compensate the petitioner (one time) if it's going to cost too much to fix or construct the drainage works. The engineer chose not to do that, but probably should have in this case.

Tue, Jul 18, 4:38 PM

It's allowance for damage due to insufficient outlet

So because the outlet had to be deepened and modified it grew to other properties

Basically the topography didn't allow for sufficient drainage in to the Creek from their property is what the Engineer is saying. Then because the Creek has to be looked at up stream and downstream it adds landowners

End of message

Thu, Jul 6 at 11:38 AM

Hi David, I'm sorry I didn't see this message. I appreciate your words.

In essence the application is valid because the Engineer is granted quasi judicial power once appointed.

The best course of action for the township is to advance the application and refer anyone objecting to appeal

It really comes down to the Drainage Act. It's a beast

This is helpful. I'd say I was incredibly underwhelmed with the engineer. I was not impressed at all.

Where I disagree with you is that the drainage act is very clear on this specific topic.

Under option A) in part 4.1 the application fails.

If you go with part B then they have to prove the issue was 60 percent of the land area. Also fails.

The system that you are being forced to work with is clearly broken. I would anticipate an appeal.

In your comments in the meeting you specifically outlined that one land owner can proceed without cooperation of others. I just do t see that anywhere in the Act. Let me know.

Thanks for the reply
Dave

I agree on the surface, the Act looks like section 4.1 would need multiples. However, there are clauses that support the petitioner built into the Act. It's set up in a way so the petition can't be squashed.

The system is tough on us because in reality we are just an administrative tool of the act

If there are any of those places that support that I think it would be great to supply those. Reasoning is to stop an unnecessary appeal. If there are clauses in there that do what you say then that is fact and truth. If that is the case I think people will stop this process.

Text
communication
between assessed
Wellesley
landowner David
Marshall and
Township
Councillor K.
Wilkinson

July 6/2023

No
reasoning
supplied



A Guide for Engineers

working under the

DRAINAGE ACT IN ONTARIO

Publication 852

Ministry of Agriculture,
Food and Rural Affairs



See Applicant's AOD, Tab 053

8.6 Allowances for Insufficient Outlet (Section 32)

Drainage systems must be taken to a sufficient outlet (Section 15), with one exception. A sufficient outlet is defined as a point at which water can be discharged safely so that it will do no damage to lands or roads. The exception to this requirement is to provide compensation to the affected property owners instead of taking the drain to a sufficient outlet (Section 32).

It may be less expensive to provide an allowance to compensate property owners rather than to construct a drain to a sufficient outlet for situations such as:

- a drain that would continue through a wetland or woodlot
- a drain that would require addressing conditions imposed by regulatory agencies
- land periodically used for water storage by design or agreement

Allowances for insufficient outlet are provided only once to affected properties unless further improvements on the upstream drainage works are undertaken. When drain improvements are considered, only the incremental increase in potential damages should be compensated.

Compensation paid for insufficient outlet is normally not more than the market value of the land that would be subject to increased flooding. Provide an allowance for the incremental increase in damages caused by the drainage system as determined through a hydrologic and hydraulic analysis. The frequency and extent of incremental flooding, land use and crop loss values are important considerations in determining compensation.

Allowances for an insufficient outlet can address:

- an insufficient outlet related to an existing drainage works or
- an anticipated insufficient outlet resulting from a new upstream project

Part A, Chapter 9 presents how the difference between these two situations of insufficient allowances is assessed.

With the limited rationale provided at the end of the Meeting to Consider, especially the use and reference of Section 32 of the Drainage Act, further exploration was required.

- The Meeting to Consider and the responses following left many of the land owners scratching their heads. The closed meeting was clearly being used as a shield for any real answers or discussion.
- The particulars around the issue of petition validity was not touched.
- Section 32 was referenced, but in a way that made little sense. They said Section 32 is the reason the project grew, but in our case, Section 32 describes an option where the Engineer could have scaled down the project.
- When the Engineer made the assessment of an insufficient outlet, there was an option to compensate the impacted landowners without having to carrying out the drainage works, and without having to reconstruct Bamberg Creek - a terribly expensive proposition and something the landowners don't want or feel is needed.
- From a cost-benefit point of view this clearly would have been the best option. With such a small area not systematically tiled, little evidence of significant impact, no case can be made to suggest the outlet improvements would have been the more 'affordable' option rather than just compensation to the petitioner, especially when no benefits of the works have been proven or quantified.

Exhibit “**CC**” to the Affidavit of Cory Kittel
Sworn before me this 2nd day of April, 2024.



Commissioner for Taking Affidavits, etc.



COUREY LAW

PROFESSIONAL CORPORATION

Paul Courey LL.B.
T.C. Odette Jr. Q.C. (1916-1999)
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File No: 23146

October 31, 2023

Ministry of Agriculture, Food and Rural Affairs
1 Stone Road West, 2nd Floor NW
Guelph, ON N1G 4Y2
AFRAAT@ontario.ca

Dear Sir/Madam

Re: Township of Wilmot – Banberg Creek and Jamana Drains

I will represent the Township with respect to these appeals, which I believe you have received by now.

I should advise the Tribunal that there is also an appeal filed with the Referee. It disputes the validity of the petition under section 47.

I wonder whether the Tribunal will choose to delay its process pending the outcome of the Referee's process. If the petition is found to be invalid, then there is no point in dealing with the appeals to the Tribunal.

Please provide some direction.

Yours truly,

COUREY LAW *Professional Corporation*

PAUL COUREY
PC/slc

cc: Chad Curtis, Wilmot Township – chad.curtis@wilmot.ca
Corey Kittel – corykittel@gmail.com

Agriculture, Food and Rural Affairs
Appeal Tribunal
1 Stone Road West, 2nd Floor NW
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Tribunal d'appel de l'agriculture, de
l'alimentation et des affaires rurales
1 Stone Road West, 2nd étage NW
Guelph (Ontario) N1G 4Y2
Tél.: (519) 826-3433, Téléc.: (519) 826-4232
Courriel: AFRAAT@ontario.ca



November 6, 2023

Re: Bamberg Creek, Jananna, and Koch-Leis Municipal Drains

Dear Parties,

The Tribunal is in receipt of a letter from Mr. Paul Courey, who will be representing the municipality, which outlines that there is an appeal filed with the Drainage Referee by Mr. Kittel relating to the validity of the petition in this matter.

The Tribunal will pause the appeal process for all appellants until there is a decision from the Drainage Referee on this issue.

We ask that Mr. Courey please undertake to advise the Tribunal when a decision takes place.

Thank you,



Glenn C. Walker, Chair
Agriculture, Food and Rural Affairs Appeal Tribunal

TO:

Chad Curtis
Deputy Clerk
Township of Wilmot
Chad.Curtis@wilmot.ca

AND TO:

Ladislaus Bauer
[REDACTED]
RR#1 Wellesley, ON, N0B 2T0
[REDACTED]

AND TO:

Cory Kittel
[REDACTED]
St. Agatha, On, N0B 2L0
[REDACTED]

AND TO:

Paul Courey
COUREY LAW Professional Corporation
Paul Courey
18 Queen St. S., Box 178
Tilbury, ON. NOP 2LO
Tel: 519-682-1644 Fax: 519-682-1146
Email: mail@coureylaw.com

CORY KITTEL
Applicant

-and- THE CORPORATION OF THE TOWNSHIP OF WILMOT
Respondent

Court File No. CV-23-00001662-0000 (Kitchener)

ONTARIO
COURT OF THE DRAINAGE REFEREE

PROCEEDING COMMENCED AT
WATERLOO

AFFIDAVIT

**THE LAW OFFICE OF
SAMUEL KIRWIN
PROFESSIONAL CORPORATION**

472 Ridout Street North
London ON N6A 2P7

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Lawyer for the Applicant

File Number: 0136