

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** February 01, 2017

**CASE NO(S):** PL150119

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Arbour Farms Ltd.
Subject:	Request to amend the Official Plan - Failure of Township of Mulmur to adopt the requested amendment
Existing Designation:	Rural and Natural Area
Proposed Designated:	Extractive Industrial designation
Purpose:	To permit a sand and gravel pit
Property Address/Description:	Lot 23, Concession 7, East of Hurontario Street
Municipality:	Township of Mulmur
Approval Authority File No.:	OP01/2013
OMB Case No.:	PL150119
OMB File No.:	PL150119
OMB Case Name:	Arbour Farms Ltd. v. Mulmur (Township)

**PROCEEDING COMMENCED UNDER** subsection 11(5) of the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended

Referred by:	Jane Ireland
Objector:	John Bowles
Objector:	Conserve Our Rural Environment
Objector:	Gary Corlett
Objector:	Carl Cosack; and others
Applicant:	Arbour Farms Ltd.
Subject:	Application for a Class A licence for the removal of aggregate
Property Address/Description:	Part Lot 23, Concession 7
Municipality:	Township of Mulmur
OMB Case No.:	PL150119
OMB File No.:	MM150011

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Arbour Farms Ltd.
Subject:	Application to amend Zoning By-law No. 05-02 - Refusal or neglect of the Township of Mulmur to make a decision
Existing Zoning:	Rural and Environmental Protection
Proposed Zoning:	Extractive Industrial (MX)
Purpose:	To permit a sand and gravel pit
Property Address/Description:	Lot 23, Concession 7, East of Hurontario Street
Municipality:	Township of Mulmur
Municipality File No.:	ZB01/2013
OMB Case No.:	PL150119
OMB File No.:	PL150120

**Heard:** January 19, 2017 by telephone conference call

**APPEARANCES:**

**Parties**

**Counsel**

Arbour Farms Ltd.	Mary Bull
Township of Mulmur	David Germain
Conserve Our Rural Environment (CORE), and Cheryl Russel	Jane Pepino
Airport Road Gravel Group (ARGG)	Alistair Crawley
County of Simcoe	Marshall Green
Township of Adjala-Tosorontio (no status granted)	James Feehely

**MEMORANDUM OF ORAL DECISION DELIVERED BY H. JACKSON ON JANUARY 19, 2017 AND ORDER OF THE BOARD**

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[1] Arbour Farms Ltd. (the “Applicant”) applied for a Class “A” licence under the *Aggregate Resources Act* (the “ARA”) to establish a sand and gravel pit operation on their lands located at Lot 23, Concession 7 EHS and known municipally as 938171

Airport Road (the “subject lands”), in the Township of Mulmur (the “Township”). The Applicant also applied for Official Plan and Zoning By-law Amendments to permit the operation. The Applicant appealed the Township’s failure to make a decision on the applications within the requisite time frame, pursuant to s. 22(7) and 34(11) of the *Planning Act*. Pursuant to s. 11(5) of the ARA, the Ministry of Natural Resources and Forestry (the “MNR”) referred this application to the Ontario Municipal Board (the “Board”) for a hearing to determine whether a licence should be issued for the subject site.

[2] The parties entered into Board assisted mediation and came to a resolution of the issues. Minutes of Settlement were entered into between the Applicant and the Township and between the Applicant and the residents’ groups Conserve Our Rural Environment (“CORE”) and Airport Road Gravel Group (“ARGG”). The settlement with CORE and ARGG depends upon the Applicant entering into a Road Restriction Agreement (“RRA”) which has the effect of limiting the use of Airport Road between Highway 89 and the pit for trucks going to and from the pit. Trucks that are delivering to Mulmur Township and Shelburne are not restricted from using this section of Airport Road. The access to the pit is now to be on Dufferin County Road 21.

[3] There is a three-week hearing currently scheduled to commence March 27, 2017 in this matter.

[4] At a previous Pre-hearing Conference (“PHC”) held on November 24, 2016, the County of Simcoe (“Simcoe County”), requested and was granted limited party status in the matter. The limitation to the status is as follows: “any incremental impact from an increase in the number of trucks from Arbour Farms pit on Simcoe County Roads 12 and 13 in terms of operational issues and in terms of safety.” Simcoe County objects to the limitation and has served a Notice for Motion for Leave to Appeal this Decision of the Board (issued December 23, 2016) to the Ontario Superior Court of Justice Divisional Court. Simcoe County has also served a motion upon the parties requesting an adjournment of the hearing date in light of the Leave to Appeal. Simcoe County

contends that the decision of the Court should be determined before the Board hearing commences as the Court decision may impact the proceedings before the Board.

[5] At the PHC of November 24, 2016, the Township of Adjala-Tosorontio (“Adjala-Tosorontio”) indicated that they also may wish to request limited party status in the matter. The Board directed Adjala-Tosorontio to serve a motion to that effect if desired; such motion was served December 14, 2016.

[6] Today’s event was a telephone conference call (“TCC”) to argue the two motions and to deal with procedural issues. Prior to the TCC, the parties and Adjala-Tosorontio were able to reach common ground in regards to the approach to these two motions.

[7] Upon consent, the parties and Adjala-Tosorontio requested the Board to schedule a date upon which the Adjala-Tosorontio motion for party status can be heard in person. It was agreed that this motion would be heard on February 16, 2017.

[8] Further, Simcoe County requested that its motion to adjourn the hearing be adjourned *sine die*, to permit the parties and Adjala-Tosorontio time to engage in settlement discussions. The parties and Adjala-Tosorontio agreed that if a settlement is not reached by Tuesday, February 21, 2017, the parties and Adjala-Tosorontio will request that the Board adjourn the hearing until after Simcoe County’s motion for leave to appeal the Board’s decision regarding its limited party status or any motion for leave to appeal a Board decision regarding the request for limited party status of Adjala-Tosorontio is resolved.

[9] The parties and Adjala-Tosorontio requested changes to the exchange dates in the Procedural Order as follows:

- participant statement exchange – March 1, 2017
- witness statement exchange – March 1, 2017
- reply witness statement exchange – March 15, 2017

- visual evidence exchange – March 20, 2017

[10] The attached Procedural Order is amended with these dates.

[11] If the hearing is adjourned, the Procedural Order will require further amendment. However, if the hearing proceeds on the scheduled date of March 27, 2017, a shorter time will be required. On that basis, the second two weeks scheduled for the hearing may be released.

### ORDER

[12] A further PHC is scheduled for Thursday, February 16, 2017 to hear the motion for party status by Adjala-Tosorontio, commencing at 10:30 a.m. and to be held at:

**Mulmur Township Municipal Offices  
758070 Second Line East, Terra Nova  
Mulmur, ON L9V 0G8**

[13] The Simcoe County's motion to adjourn the hearing is adjourned *sine die*.

[14] The Board orders the dates of April 3 to 13, 2017, previously scheduled for the hearing, are hereby released from the Board's calendar. The dates of March 27 to 31, 2017, remain.

[15] This member is seized of the PHC.

[16] No further notice will be provided.

*"H. Jackson"*

H. JACKSON  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

**Ontario Municipal Board**  
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**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

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Municipality: Township of Mulmur  
Approval Authority File No.: OP01/2013  
OMB Case No.: PL150119  
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OMB Case Name: Arbour Farms Ltd. v. Mulmur (Township)

**PROCEEDING COMMENCED UNDER** subsection 11(5) of the *Aggregate Resources Act*, R.S.O. 1990, c. A.8, as amended

Referred by: Jane Ireland  
Objector: John Bowles  
Objector: Conserve Our Rural Environment  
Objector: Gary Corlett  
Objector: Carl Cosack; and others  
Applicant: Arbour Farms Ltd.  
Subject: Application for a Class A licence for the removal of aggregate  
Property Address/Description: Part Lot 23, Concession 7  
Municipality: Township of Mulmur  
OMB Case No.: PL150119  
OMB File No.: MM150011

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Arbour Farms Ltd.  
Subject: Application to amend Zoning By-law No. 05-02 - Refusal or neglect of the Township of Mulmur to make a decision  
Existing Zoning: Rural and Environmental Protection  
Proposed Zoning: Extractive Industrial (MX)  
Purpose: To permit a sand and gravel pit  
Property Address/Description: Lot 23, Concession 7, East of Hurontario Street  
Municipality: Township of Mulmur  
Municipality File No.: ZB01/2013  
OMB Case No.: PL150119  
OMB File No.: PL150120

## PROCEDURAL ORDER

The Board orders that:

[1] The Board may vary or add to this Order at any time either on request or as it sees fit. It may amend this Order by an oral ruling or by another written Order.

### Organization of the Hearing

[2] The Board will hold a prehearing conference on **Thursday, November 24, 2016 and Friday, November 25, 2016** at 10 a.m. at the Municipal Building, Lower Level Meeting Room, 758070 Second Line East, Terra Nova, ON L9V 0G8.

[3] The hearing will begin on **Monday, March 27, 2017 at 10 a.m.** at the Municipal Building, Lower Level Meeting Room, 758070 Second Line East, Terra Nova, ON L9V 0G8 in the municipality of the Township of Mulmur. All parties and participants shall attend the first day of the hearing.

[4] The length of the hearing will be 5 days. The length of the hearing may be shortened as issues are resolved or settlement is achieved.

[5] The parties and participants identified at the prehearing conference are listed in **Attachment 1** to this Order.

[6] The Issues are set out in the Issues List attached as **Attachment 2**. There will be no changes to this list unless the Board permits it. A party who asks for changes may have costs awarded against it.

[7] The order of evidence shall be as listed in **Attachment 3** to this Order. The Board may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on consent or by Order of the Board.

### Requirements Before the Hearing

[8] All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Board. Any such person who retains a representative (legal counsel or agent) subsequent to the prehearing



conference must advise the other parties and the Board of the representative's name, mailing address, email address and phone number.

[9] A person who wishes to become a party at the hearing, and who did not request this at the prehearing conference, must ask the Board's permission for this. The Board may refuse.

[10] A party who intends to call witnesses, whether by summons or not, shall provide to the Board, the other parties and to the municipal Clerk a list of the witnesses and the order in which they will be called. This list must be delivered by **Friday, December 23, 2016**. For expert witnesses, a party is to include a copy of the curriculum vitae and the area of expertise in which the witness is proposed to be qualified.

[11] On or before **Friday, January 6, 2017**, expert witnesses in the same field shall have a meeting before the hearing to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the parties and the municipal Clerk by **Friday, January 13, 2017**.

[12] An expert witness shall prepare an expert witness statement, that shall include: an acknowledgement of expert's duty form, the area(s) of expertise, any reports prepared by the expert, and any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 15. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.

[13] A witness and participant must provide to the Board and the parties a witness or statement on or before **Wednesday, March 1, 2017**, or the witness or participant may not give oral evidence at the hearing.

[14] Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence and his or her area of expertise, as in section [13].

[15] On or before **Wednesday, March 1, 2017**, the parties shall provide copies of their witness and expert witness statements to the other parties and to the Clerk of the Township of Mulmur. The parties shall each prepare a Document Book containing the

documents that the party intends to rely on in its evidence in chief. The parties shall cooperate so as to avoid unnecessary duplication of documents. All Document Books shall be filed with the Board on the first day of the hearing. A paper copy of any document proposed to be entered into evidence or relied upon shall be provided at the hearing unless ordered otherwise by the presiding Member.

[16] On or before **Monday, March 20, 2017**, the parties shall provide copies of their visual evidence to all of the other parties. If a model is proposed to be used the Board must be notified before the hearing. All parties must have a reasonable opportunity to view it before the hearing.

[17] Parties may provide to all other parties and to the Clerk of Township of Mulmur a written response to any written evidence on or before **Wednesday, March 15, 2017**.

[18] A person wishing to change written evidence, including witness statements, must make a written motion to the Board in accordance with the Board's Rules [34 to 38].

[19] A party who provides the written evidence of a witness to the other parties must have that witness attend the hearing to give oral evidence, unless the Board and the parties are notified at least 7 days before the hearing that the written evidence is not part of their record.

[20] Documents may be delivered in person, by courier, by facsimile or registered or certified mail, by email or otherwise as the Board may direct. The delivery of documents by fax and email shall be governed by the Board's Rules [26 – 31] on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.

[21] No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

This Member is [not] seized.

So orders the Board.

**Attachment 1**  
**PARTIES & PARTICIPANTS**

<b>PARTIES</b>		
	<b>Parties</b>	
1.	<b>Mulmur Township</b> David Germain Thompson Rogers	Tel: (416) 868-3100 Fax: (416) 868-3134 Email: <a href="mailto:dgermain@thomsonrogers.com">dgermain@thomsonrogers.com</a>
		Thomson, Rogers 390 Bay Street, Suite 3100 Toronto, ON M5H 1W2
2.	<b>Arbour Farms Ltd.</b> Mary Bull Wood Bull LLP	Tel: (416) 203-7160 Fax: (416) 203-8324 Email: <a href="mailto:mbull@woodbull.ca">mbull@woodbull.ca</a>
		Wood Bull LLP 65 Queen Street W, Suite 1400 Toronto, ON M5H 2M5
3.	<b>Airport Road Gravel Group</b> Alistair Crawley Crawley MacKewn Brush LLP	Tel: (416) 217-0110 Fax: (416) 217-0220 Email: <a href="mailto:acrawley@cmbllaw.ca">acrawley@cmbllaw.ca</a>
		Crawley MacKewn Brush LLP 179 John Street, Suite 800 Toronto, ON, M5T 1X4
4.	<b>Conserve our Rural Environment (CORE)</b> Jane Pepino Aird & Berlis  Chris Barnett / Laura Bissett DLA Piper	Tel: (416) 863-1500 Fax: (416) 863-1515 Email: <a href="mailto:jpepino@airdberlis.com">jpepino@airdberlis.com</a>  Tel: (416)365-3500 Fax: (416) 365-7886 Email: <a href="mailto:chris.barnett@dlapiper.com">chris.barnett@dlapiper.com</a> / <a href="mailto:laura.bissett@dlapiper.com">laura.bissett@dlapiper.com</a>
		Aird & Berlis LLP 181 Bay Street, Suite 1800, Box 754 Toronto, ON, M5J 2T9  DLA Piper 100 King Street West, Suite 6000 Toronto, ON M5X 1E2
5.	<b>Charles, Ron</b>	Email: <a href="mailto:rcharles@caldwellpartners.com">rcharles@caldwellpartners.com</a>
6.	<b>Corlett, Gary</b>	Email: <a href="mailto:gcorlett@xplornet.com">gcorlett@xplornet.com</a>
7.	<b>Houston, Ian &amp; Sylvia</b>	Email: <a href="mailto:stikhons@live.com">stikhons@live.com</a> (email undeliverable to this address)
8.	<b>Moffat, Nicole &amp; Bruce</b>	
		Box 74 RPO Mansfield Mulmur, ON L9V 0W2
9.	<b>Perrett, Glenn</b>	
		44 Mountainview Rd Mulmur, ON L9V 3H5
10.	<b>Stinson, Peter</b>	Email: <a href="mailto:peterkstinson@sympatico.ca">peterkstinson@sympatico.ca</a>
11.	<b>Wigle, Christina</b>	
		38 Avoca Avenue Suite 1203 Toronto, ON M4T 2B9
12.	<b>Arnfinson, Sher</b>	Email: <a href="mailto:sher@shiatsubysheer.com">sher@shiatsubysheer.com</a>
13.	<b>Burnford, Caroline</b>	Email: <a href="mailto:ffncarrie@gmail.com">ffncarrie@gmail.com</a>
14.	<b>Monaghan, Michael</b>	Email: <a href="mailto:01monahan@gmail.com">01monahan@gmail.com</a>
15.	<b>Power, Sue-Ann</b>	Email: <a href="mailto:saelpow@hotmail.com">saelpow@hotmail.com</a>

<b>PARTIES</b>			
16.	<b>County of Simcoe</b> Marshall Green	Tel: 705-726-9300 x1657 Email: <a href="mailto:marshall.green@simcoe.ca">marshall.green@simcoe.ca</a>	Legal Service Department Simcoe County 1110 Highway 26 Midhurst, ON L9X 1N6
<b>Parties Represented by CORE</b>			
17.	<b>The Community Safety &amp; Preservation Association</b> Attention: Natalie Kotyck	Email: <a href="mailto:nj.kotyck@rogers.com">nj.kotyck@rogers.com</a>	
18.	<b>Mono Mulmur Citizens' Coalition</b> Attention: Don Macfarlane	Email: <a href="mailto:macfarlane.don.m@gmail.com">macfarlane.don.m@gmail.com</a>	
19.	<b>Safe Communities of the Hill Country (Incorporated)</b> Attention: Snider, Sue And Plester, Kirsten	Email: <a href="mailto:topform@rogers.com">topform@rogers.com</a>	
20.	<b>Caspari, David</b>	Email: <a href="mailto:davidcaspari@gmail.com">davidcaspari@gmail.com</a>	
21.	<b>Bowles, David &amp; Olive</b>	Email: <a href="mailto:olive.bowles@sympatico.com">olive.bowles@sympatico.com</a>	
22.	<b>Ferguson, Ann</b>	Email: <a href="mailto:ann.ferguson@sympatico.ca">ann.ferguson@sympatico.ca</a>	
23.	<b>Green, Robert</b>	Email: <a href="mailto:rgreen@nadg.com">rgreen@nadg.com</a>	
24.	<b>Hertel, Karen</b>	Email: <a href="mailto:karen_hertel@hotmail.com">karen_hertel@hotmail.com</a>	
25.	<b>Hubrecht, Peter and Maria</b>	Email: <a href="mailto:amhubrecht@gmail.com">amhubrecht@gmail.com</a> <a href="mailto:jphub@hotmail.com">jphub@hotmail.com</a>	
26.	<b>Macdonald, Robert</b>	Email: <a href="mailto:bob.macdonald@maritz.com">bob.macdonald@maritz.com</a>	
27.	<b>Mikoliew, Ken</b>	Email: <a href="mailto:mansfield@sympatico.ca">mansfield@sympatico.ca</a>	937365 Airport Road Mulmur, ON L9V 3T6
28.	<b>Power, Billie</b>	Tel: 705-466-3488 Email: <a href="mailto:1monahan@gmail.com">1monahan@gmail.com</a>	938056 Airport Road Mulmur, ON L9V 0L9
29.	<b>Russel, Cheryl</b>	Email: <a href="mailto:cherylrussel167@gmail.com">cherylrussel167@gmail.com</a>	
30.	<b>Somerville, Jane</b>	Email: <a href="mailto:somer@sympatico.ca">somer@sympatico.ca</a>	
31.	<b>Spitzer, Herb</b>		4 Ann Street Glen Williams, ON L7G 2V2
32.	<b>Swinton, Lisa</b>	Email: <a href="mailto:lisa.swinton@yahoo.ca">lisa.swinton@yahoo.ca</a>	
33.	<b>Wellspring Farms Ltd.</b> Attention: Jane Pepino	Email: <a href="mailto:jpepino@Airdberlis.com">jpepino@Airdberlis.com</a>	
34.	<b>Wolfson, Norman</b>		34 Lower Village Gt Toronto, ON M5P 3L7

<b>PARTIES</b>		
<b>Parties Represented by Airport Road Gravel Group</b>		
35.	<b>Bloom, Lynda</b>	Email: <a href="mailto:lbb878@gmail.com">lbb878@gmail.com</a>
36.	<b>Crawley, Alistair &amp; Barbara</b>	Email: <a href="mailto:acrawley@cdblaw.ca">acrawley@cdblaw.ca</a>
37.	<b>Fraser, Graham</b>	Email: <a href="mailto:gfraser@candelacon.com">gfraser@candelacon.com</a>
38.	<b>Mcauley, David</b>	Email: <a href="mailto:jdmcauley@sympatico.ca">jdmcauley@sympatico.ca</a>
39.	<b>Thomson, John</b>	Email: <a href="mailto:thomson212@gmail.com">thomson212@gmail.com</a>

<b>PARTICIPANTS</b>		
<b>Participants Represented By Airport Road Gravel Group</b>		
40.	<b>Hambleton, Nicole</b>	Email: <a href="mailto:nicole.dietitian@gmail.com">nicole.dietitian@gmail.com</a>
<b>Participants Represented By CORE</b>		
41.	<b>Bell, Lawrence / Raison, Jacqueline</b>	Email: <a href="mailto:lawrencebell@bell.net">lawrencebell@bell.net</a>
42.	<b>Spencer, Crawford / Spencer, Sandra</b>	Email: <a href="mailto:sandy.spencer@sympatico.ca">sandy.spencer@sympatico.ca</a>
<b>Other Participants</b>		
43.	<b>Bowles, John</b>	938093 Airport Road Mulmur, ON L9V 0L9
44.	<b>Wink, Jennifer</b>	938093 Airport Road Mulmur, ON L9V 0L9
45.	<b>Cosack, Carl</b>	Email: <a href="mailto:cosack@zing-net.ca">cosack@zing-net.ca</a>
46.	<b>Cosack, Dorothee</b>	Email: <a href="mailto:dorotheecosack@gmail.com">dorotheecosack@gmail.com</a>
47.	<b>Lorriman, Jim</b>	Email: <a href="mailto:bpstudio@artscolony.on.ca">bpstudio@artscolony.on.ca</a>
48.	<b>Roy, Julie / Roy, Ronald</b>	mail: <a href="mailto:rjroy@eol.ca">rjroy@eol.ca</a>
49.	<b>Thompson, Lisa</b>	Email: <a href="mailto:shawnlisanboys@sympatico.ca">shawnlisanboys@sympatico.ca</a>
<b>Board to Confirm Whether the Following Want Participant Status</b>		
50.	<b>Banner, Korby / Boynton, Jody</b>	Email: <a href="mailto:korbybanner@gmail.com">korbybanner@gmail.com</a> <a href="mailto:jodyboynton@gmail.com">jodyboynton@gmail.com</a>
51.	<b>Bovaird, Birks</b>	Email: <a href="mailto:bbovaird@sympatico.ca">bbovaird@sympatico.ca</a>
52.	<b>Cowan, Richard / Taylor, Megan</b>	Email: <a href="mailto:bigtreecircle@hotmail.com">bigtreecircle@hotmail.com</a>
53.	<b>Feldmann, Helen</b>	Email: <a href="mailto:helenfeldmann@gmail.com">helenfeldmann@gmail.com</a>
54.	<b>Hambleton, Nicole</b>	Email: <a href="mailto:nicole.dietitian@gmail.com">nicole.dietitian@gmail.com</a>
55.	<b>Grosskopf, Martin</b>	Email: <a href="mailto:Martin.Grosskopf@agf.com">Martin.Grosskopf@agf.com</a>
56.	<b>McNulty, Diane / McNulty, Tom</b>	Email: <a href="mailto:Diane.McNulty@rgp.com">Diane.McNulty@rgp.com</a> <a href="mailto:mcnultytom4@gmail.com">mcnultytom4@gmail.com</a>
57.	<b>Payne, Jennifer</b>	Email: <a href="mailto:jenniferpayne@outlook.com">jenniferpayne@outlook.com</a>
58.	<b>Smith, Hilary</b>	Email: <a href="mailto:smithhil@gmail.com">smithhil@gmail.com</a>

**Attachment 2**  
**ISSUES LIST**

The identification of an issue does not mean that all parties agree that such issue, or the manner in which the issue is expressed, is appropriate or relevant to the determination of the Board at the hearing. The extent to which these issues are appropriate or relevant to the determination of the Board at the hearing will be a matter of evidence and argument at the hearing.

**Arbour Farms Ltd. Issues**

1. Are the applications by Arbour Farms Ltd. for amendment to the Township of Mulmur Official Plan and Zoning By-law 05-02 (the "Planning Applications") and for approval of a Class A licence under the *Aggregate Resources Act* (the "ARA Application") consistent with the Provincial Policy Statement?
2. Do the Planning Applications and the ARA Application conform to the Growth Plan for the Greater Golden Horseshoe?
3. Do the Planning Applications conform to the Township of Mulmur Official Plan, as proposed to be amended?
4. Does the ARA Application meet the requirements of the *Aggregate Resources Act*, section 12?
5. Do the Planning Applications and the ARA Application represent good planning and are they in the public interest?

**County of Simcoe Issue**

1. Any incremental impact from an increase in the number of trucks from Arbour Farms pit on Simcoe County Roads 12 and 13 in terms of operational issues and in terms of safety.

**Attachment 3**  
**ORDER OF EVIDENCE**

1. Arbour Farms Ltd.
1. Township of Mulmur
2. Conserve Our Rural Environment
3. Airport Road Gravel Group
4. Other Parties of Like Interest to Arbour Farms Ltd.
5. Participants of Like Interest to Arbour Farms Ltd.
6. County of Simcoe
7. Parties and Participants of Like Interest to County of Simcoe
8. Reply Evidence Arbour Farms Ltd.



### **Purpose of the Procedural Order and Meaning of Terms**

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not familiar with the hearing process you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-212-6349, or from the Board website at [www.omb.gov.on.ca](http://www.omb.gov.on.ca).

The parties should discuss the draft Procedural Order before the prehearing conference and identify the issues and the process they propose the Board order following the prehearing. The Board will hear submissions about the content of the Procedural Order at the prehearing.

### **Meaning of terms used in the Procedural Order:**

**Party** is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person will become the party and assume the responsibilities of a party as set out in the Procedural Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.

**Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. At the hearing, a participant may be asked questions by the parties about their statements. Participants do not normally receive notice of a mediation or conference calls on procedural issues and cannot ask for costs, or review of a decision as parties can.

**Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing. If a model forms part of the evidence, photographs of the model shall also be filed.

### **Witness Statements:**

A **witness statement** or a **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' or participant's position on those issues; and a list of reports that the witness or participant will rely on at the hearing.

An **expert witness statement** should include his or her (1) name and address, (2) qualifications, acknowledgement of the expert's duty, and specific area(s) of expertise, (3) a list of the issues to be addressed, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing.

*The Procedural Order will set out when and how witness statements are to be exchanged.*

**Additional Information**

**Summons:** *A party may ask the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure.) An affidavit may be requested indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.*

**The order of examination of witnesses:** *is usually direct examination, cross-examination and re-examination in the following way:*

*direct examination by the party presenting the witness;*

*direct examination by any party of similar interest, in the manner determined by the Board;*

*cross-examination by parties of opposite interest;*

*re-examination by the party presenting the witness; or*

*another order of examination mutually agreed among the parties or directed by the Board.*

**Role of Participants:** *Participants are identified at the start of a prehearing or at the start of a hearing. Participant statements should be filed with the Board and the parties in accordance with the direction set out in the Board's Procedural Order. If a participant does not attend the hearing and only files a written statement, the Board may not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file the material and do not attend.*

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