

**Ministry of  
Municipal Affairs  
and Housing**

Municipal Services Office  
Western Ontario  
2<sup>nd</sup> Floor  
659 Exeter Road  
London ON N6E 1L3  
Tel: 519 873-4020  
Toll Free: 1 800-265-4736  
Fax: 519 873-4018

**Ministère des  
Affaires municipales  
et du Logement**

Bureau des services aux municipalités  
de l'Ouest de l'Ontario  
2<sup>e</sup> étage  
659 Exeter Road  
London ON N6E 1L3  
Tél. : 519 873-4020  
Sans frais : 1 800-265-4736  
Télééc. : 519 873-4018



December 24, 2018

Ms. Ashley Taylor  
Planner  
Planning and Economic Development Department  
Haldimand County  
Hagersville Satellite Office  
1 Main St. S., Hagersville, ON N0A 1H0

**Subject: Official Plan Amendment and Zoning By-law Amendment  
52 Weatherburn Line, Haldimand County  
PLOP-HA-2018-151 & PLZ-HA-2018-152**

---

Dear Ms. Taylor,

The Ministry of Municipal Affairs and Housing (MMAH) acknowledges receipt of the circulation of a proposed County Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) for lands located at 52 Weatherburn Line (County File No. PLOP-HA-2018-151 & PLZ-HA-2018-152). It is recognized this amendment is exempt from the Minister's approval and our comments are provided to the County for its consideration in making a decision on this matter.

It is the understanding of Ministry staff that the purpose of the proposed OPA and ZBA is to permit the expansion of the Lakeshore Node of Green's line to create an additional lot for seasonal residential purposes. The effect of the OPA and ZBA would be to amend the Haldimand County Official Plan to re-designate a portion of the subject lands from 'Agricultural' to 'Resort Residential' and re-zone the subject lands from 'Agricultural (A)' to 'Seasonal Residential (RS)' Zone, which permits a summer cottage.

In accordance with the Planning Act, the decision of the County regarding the OPA must be consistent with the Provincial Policy Statement, 2014 (PPS), and must conform with, or not conflict with the Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan).

Given the nature of the County OPA and ZBA, and the location of the subject lands, MMAH staff has conducted a scoped One Window circulation of the documentation to the Ministry of Agriculture, Food, and Rural Affairs (OMAFRA), the Ministry of Natural Resources and Forestry (MNRF), and the Ministry of the Environment, Conservation and Parks (MECP). MMAH staff has considered the purpose and effect of the OPA and ZBA, and offer the following comments for your consideration.

**i. Permitted uses in the prime agricultural area**

The site is located within a prime agricultural area, and, as set out in policy 2.3.3.1 of the PPS, permitted uses in a prime agricultural area are limited to agricultural uses, agriculture related

uses, and on-farm diversified uses. It is understood that this application is not for one of these uses.

Policy 2.3.4 of the PPS speaks to the creation of lots and lot adjustments in the prime agricultural area. Specifically, policy 2.3.4.3 states that “the creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c).” PPS policy 2.3.4.1(c) permits lot creation in a prime agricultural area as a result of a residence surplus to a farming operation as a result of a farm consolidation. It is understood that this application is not for the severance of a residence surplus to a farming operation.

Although policy 2.3.6 of the PPS may permit certain non-agricultural uses in a prime agricultural area where certain conditions are satisfied, those site specific exceptions are limited to the extraction of minerals, petroleum resources, mineral aggregate resources and non-residential uses. It is understood that this application is not for one of these uses.

Overall, the proposed amendment is not contemplated in a prime agricultural area.

Policy 2.3.5 of the PPS contemplates the removal of land from a prime agricultural area and states that planning authorities may exclude land from a prime agricultural area for the expansions or identification of settlement areas in accordance with policy 1.1.3.8 (comprehensive review). In order for this amendment to be given favourable consideration, information that addresses the requirements of policy 1.1.3.8 is needed.

## ii. Species at risk

It should be noted that there are records of the following species at risk (SAR) in the area:

Eastern Foxsnake (Carolinian population) (*Pantherophis gloydi*)- Endangered (confirmed)

Gray Ratsnake (Carolinian population) (*Pantherophis spiloides*)- Endangered (anecdotal)

It should be noted that, as the Province has not been surveyed comprehensively for the presence of listed species, the absence of a record does not necessarily indicate the absence of SAR from an area, so other SAR may be present in the area. Threatened and Endangered Species receive both individual species and habitat protection under the *Endangered Species Act, 2007* (ESA). SAR habitat prescribed under regulation (eg. Eastern Foxsnake) is listed in Ont. Reg. 242/08 (<https://www.ontario.ca/laws/regulation/080242>).

There may be suitable habitat for Eastern Foxsnake on the subject property near the shoreline based upon the recent observations in the general area and the description of habitat prescribed under regulation.

The regulated habitat for Eastern Foxsnake (Carolinian population) includes, but is not limited to the following:

*Paragraph 8 Any part of a prairie, savannah, hedge row, shoreline, marsh, old field, forest, sand dune or similar area that is being used by an eastern foxsnake (Carolinian population) or on which an eastern foxsnake (Carolinian population) directly depends to carry on its life processes.*

*Paragraph 9 An area that provides suitable foraging, thermoregulation, or hibernation conditions for eastern foxsnake (Carolinian population) that is within 1,500 metres of any area described in paragraph 8.*

*Paragraph 10 An area that provides suitable conditions for an eastern foxsnake (Carolinian population) to move between areas described in paragraphs 1 through 9.*

Note that the ESA may be amended as a result of species assessment and re-assessment, which can change the level of protection for species' and their habitats. More information about the ESA can be accessed on this webpage: <http://www.ontario.ca/environment-and-energy/how-get-endangered-species-act-permit-or-authorization>. Please also note that the ESA is triggered by activities that will kill, harm and/or harass threatened and/or endangered species, or that will impact their habitat.

Should the proponent wish to receive clarification on whether or not SAR surveys should be undertaken, it is recommended that they contact the province for clarification and advice. Landowner stewardship is fundamental to the long term survival and recovery of many of the provinces Species at Risk. The province can provide guidance and recommendations to the proponent if there is interest in creating or enhancing naturalized shorelines on the subject property that would offer suitable habitat for Species at Risk, such as the Eastern Foxsnake.

### **iii. Construction related issues**

Please be advised that the province (MECP) does not have a role in commenting on geotechnical studies that has been submitted to evaluate the slope stability and construction related issues, and that there is no provincial approval role for the proposed septic systems. It is likely more appropriate for the Chief Building Official to review and comment pursuant to the requirements of the Ontario Building Code.

We trust that these comments are helpful to the County in its consideration of proposed applications PLOP-HA-2018-151 & PLZ-HA-2018-152. Ministry staff is available to discuss these comments. If you have any questions or concerns, please contact me at 519-873-4031 or by email at david.stubbs@ontario.ca. By copy of this letter, MMAH requests that the Municipal Clerk provide this office with notice of the decisions on these matters.

Yours truly,

David Stubbs  
Planner  
Municipal Services Office – Western