

Haldimand County
Planning and Development Department
53 Thorburn Street, Cayuga, ON

March 1, 2021

Attn: Ashley Taylor, MCIP, RPP, M.PI
Planner

**Re: 0 Hoto Line, Haldimand County
Official Plan and Zoning By-law Amendment Applications
File Nos: PLOP-HA-2020-191 & PLZ-HA-2020-192**

Dear Madam,

We are in receipt of the County's comments, provided via e-mail. We are also in receipt of the written comments submitted by members of the public. We have taken the time to review all of these comments with the applicant and are pleased to provide this letter in response.

The following materials are submitted concurrently, in support of this response letter:

- 1) Public Information Letter, prepared by A.J. Clarke & Associates Ltd., dated February 19th, 2020;

For clarity, all comments have been listed in this letter in *italics* under headings associated with the relevant commenting department/agency. Responses to each comment are provided below each comment.

Technical Comments

MMAH

Stakeholder Comment: MMAH and partner ministries do not have any formal comments on this application.

AJC Response: Acknowledged.

OMAFRA

Stakeholder Comment: MDS analysis to be completed;

AJC Response: A preliminary MDS I calculation has been conducted for the subject lands. Based on the findings of preliminary calculations, the greatest setback requirement from any existing livestock barn is approximately 183 metres.

Attached to this response is a preliminary map showing the approximate setback between the nearest barns and the proposed dwelling. The proposed dwelling is setback approximately 900-1000 metres from the nearest potential nuisance source. This setback far exceeds the anticipated setback requirement per the MDS I calculation. We do not anticipate that any farms within a 1,500 metre radius of the subject lands will be a potential nuisance should the proposed dwelling be approved.

In addition to the above-noted findings, the County Official Plan notes under Policy 3.A.14 that, notwithstanding policies relating to new developments on existing lots of record, where there is a vacant lot of record that is impacted by MDS requirements, a dwelling may be permitted provided the dwelling is located on the lot at the furthest distance possible from the impacted livestock facilities. The proposed dwelling is generally located towards the southwestern quadrant of the subject lands. This location maximizes the possible setback from nearby farms while also maintaining appropriate setbacks from neighbouring residential dwellings, in order to maintain privacy for all residents.

As the proposed dwelling setback from any nearby livestock facilities exceeds the MDS requirement and the dwelling is generally located as far as possible from the nearby livestock facilities, it is our opinion that no further analysis is required. We do not anticipate any adverse impacts on the subject lands from nearby livestock facilities.

Stakeholder Comment: The subject property is designated 'Agriculture' and located in the prime agricultural area and are not considered rural lands;

AJC Response: Acknowledged.

Stakeholder Comment: Agricultural system policies in the Growth Plan not addressed in the PJR;

AJC Response: Please refer to our detailed response under County Planning Comments, below.

Emergency Services

Stakeholder Comment: Emergency Services would require year-round access for Emergency Services on private road (Hoto Line and Erie Heights Line) with maintenance done to road to withstand Emergency vehicles (fire trucks and ambulances) to support the application.

AJC Response: The property owner (applicant) is willing and happy to work with the neighbours that already utilize Hoto Line for access to assist with any costs associated with the maintenance of Hoto Line year-round. In addition, the applicant will coordinate with neighbours to plow Hoto Line in the winter months and ensure that the road is maintained to a serviceable standard.

Furthermore, on June 5th, 2020 the owner received written correspondence from Ben Kissner (County of Haldimand) noting that EMS Staff confirmed that the site would be accessible for emergency vehicles. For these reasons, it is our opinion that the site will be accessible year-round for emergency services.

A subsequent meeting was held on June 25th, 2020 between the Applicants and Ben Kissner (Haldimand County), Shannon VanDalen (Manager – Community & Development

Services, Haldimand County), and Rob Shirton (Ward 5 Councillor). The Applicants note that during this meeting County Staff confirmed that EMS could access the site. This meeting was held prior to the Applicants purchasing of the subject lands.

Stakeholder Comment: Through further discussion with Emergency Services staff, the County does not have a municipal program that regulates and can guarantee snow plowing on private roads. Roads Operations has confirmed that Hoto Line is a private road that is not maintained or plowed by the County. The road is too narrow and was not constructed to hold heavy vehicles such as fire trucks and ambulances.

AJC Response: We acknowledge that the County cannot provide municipal snow plowing or road maintenance over a private right-of-way for the subject property. As discussed above, the applicant intends to work cooperatively with neighbours to ensure that Hoto Line is maintained to a serviceable standard year-round.

As shown on the attached photos from Google Streetview, a flatbed truck and large pickup trucks routinely use Hoto Line as access to their respective properties to conduct maintenance on existing wind turbines. This indicates that the access is wide enough to accommodate large vehicles, and is fully capable of holding heavy vehicles on an intermittent basis, as necessary.

NPCA

Stakeholder Comment: I note the presence of an NPCA regulated Watercourse traversing Hoto Line. Please note that development or site alteration within 15 metres of a watercourse requires a work permit from the NPCA, and possibly studies to be provided to the NPCA depending on the scope, nature and location of what is being proposed.

AJC Response: The subject lands are located hundreds of metres south of the regulated watercourse. There will be no changes to Hoto Line as a result of this application. As such, no impacts are anticipated to the watercourse.

Stakeholder Comment: After further review, I can confirm that the NPCA will have no objections to the proposed development, as it is located more than 30 metres from the Unevaluated Wetlands located to the east. Any additional proposed development or site alteration on the subject property that is proposed further to the east (closer to the Unevaluated Wetlands), shall be circulated to the NPCA for review and approval.

AJC Response: The proposed single detached dwelling will be located more than 30 metres from the unevaluated wetlands. We do not anticipate any impacts to the wetlands to the east.

County Planning

Stakeholder Comment: While staff have supported seasonal development on certain lots of records fronting onto existing private roads within designated 'Resort Residential Nodes' along the lakeshore, staff have not supported year round development on a private road system. Staff generally do not support new year round development on private roads for the following reasons:

Private roads and lots fronting onto private roads were generally created prior to planning controls being in place and in some cases are narrow, do not support the weight of emergency vehicles, and do not have a secondary emergency access;

Year round development on private roads is an emergency services concern – if there is an emergency and the private laneway has not been plowed, this is cause for concern for property and life safety. Roads operations and emergency services may place their staff and equipment at risk on an unimproved road, especially during the winter months.

AJC Response: EMS Staff noted that Hoto Line was suitable for emergency service access according to an email dated June 2020 from Ben Kissner (Count of Haldimand). Furthermore, the road will continue to be maintained to a serviceable standard year-round. The road is actively used for large trucks and maintenance of wind turbines.

Stakeholder Comment: Private roads and systems are in private ownership and are not maintained by the County – the County cannot guarantee maintenance of the private roadway system;

Private roads are not plowed by the County and the County cannot guarantee winter control;

AJC Response: Acknowledged. As discussed above, we acknowledge that the County cannot provide municipal snow plowing or road maintenance over a private right-of-way for the subject property. The applicant intends to work cooperatively with neighbours to ensure that Hoto Line is maintained to a serviceable standard year-round. The applicant understands that maintenance and plowing of Hoto Line will be their responsibility, along with the other property owners along Hoto Line and Erie Heights Line.

Stakeholder Comment: While one resident may be willing and able to plow the private road, the house would be permitted in perpetuity and it cannot be guaranteed that the same resident will be able to continually plow the road or the next resident will be able to.

AJC Response: We understand the County's position regarding private access to a single detached dwelling. The purpose of this application is to provide for a technical and site specific amendment to allow for this property to utilize a private access for a single detached dwelling that does not have frontage onto a municipal road. Future property owners will be aware that they share the same responsibilities for maintenance should they wish to purchase the lands in the future. This is a consideration for any perspective purchaser before purchasing a property along Hoto Line or Erie Heights Line.

Stakeholder Comment: Policy 2.2.9 rural areas does not apply because the property is located in the prime agricultural area of the County, and is designated 'Agriculture'. The County does not have any defined rural areas.

AJC Response: We concur with Staff that the lands are considered to be Prime Agricultural Area. Generally, the Policies under Section 4.2.6 of the Growth Plan are applicable. The construction of a single detached dwelling in the southwest quadrant of the site will not adversely affect the present or future agricultural viability of the vast majority of the subject lands. The potential agricultural viability of the site will not be significantly impacted.

Although the County identifies the lands as Prime Agricultural Area, Section 3.A.4 of the Official Plan specifically acknowledges that the vast majority of lands within the County consist of Prime Agricultural Lands. As per Section 3.A.4, the Official Plan states that anywhere where development occurs, lands with significant capability for agriculture may be utilized.

With the exception of having frontage on a public road, a single-detached dwelling is permitted as-of-right on the subject lands as per Section 3.A.12 of the Official Plan and the applicable zoning.

Stakeholder Comment: I do not agree that the proposal satisfies the intent of policy 5.B.2)2. of the OP.

While some of the dwellings on the road may be year round (depending on legal non-conforming status), the Official Plan and Zoning By-law specifically prohibit new development and conversions of existing cottages to year round dwellings on private roads to ensure the situation is not aggravated.

Emergency services has concerns about the width of the road, the condition of the road, and the fact that the road is a private road where snowplowing is not guaranteed by the County.

AJC Response: As discussed above, EMS Staff noted in June 2020 that Hoto Line had sufficient access for emergency vehicles. Further, the owners intend to work with the nearby neighbours to keep Hoto Line in a good state of repair, and further intend to assist in plowing the access in the winter.

In our opinion the addition of one single detached dwelling will not continue to aggravate an existing situation. Moreover, the addition of a year round dwelling on an existing lot of record will further disperse costs among owners and improve the viability of year-round maintenance of the road.

It should also be noted that there is no foreseeable opportunity to add additional dwellings or lots along the existing private right-of-way, as the subject lands are the only vacant lot of record. Further severances for new single detached dwellings would not be permitted in accordance with the applicable policies for Prime Agricultural Areas. Accordingly, it is our position that this is a unique situation which does not establish precedent and which does not exacerbate an existing situation.

Ultimately, if the proposed dwelling were not built, the issues noted above would continue to persist and there would be fewer owners to assist in maintaining the road, creating greater risk for municipal staff/equipment. Furthermore, it would restrict the potential viable use of the land to agricultural uses. This would require large tractors and machinery to frequently access the site, causing greater damage to the road – which was specifically identified as a concern in public comments.

Stakeholder Comment: The cottage neighbours have submitted letters of concern regarding new year round residency on the private roadway system.

AJC Response: Please see responses to neighbour comments below.

Stakeholder Comment: Are you planning to hold a neighbourhood meeting prior to proceeding to a public meeting for Council's consideration? How are you planning to address the letters provided by adjacent neighbours? It appears they do not want to be responsible for costs of plowing the private road.

AJC Response: The applicants have been proactive in holding informal in-person consultations with roughly half of the land owners along Hoto Line and note that the responses received have been supportive of their proposal.

Further, on February 22, 2020 a formal public information letter was mailed to neighbours within 120m of the subject property (list of addresses provided by the County of Haldimand). The letter described the intent of the application and included contact information for staff at A.J. Clarke & Associates Ltd. should there be any questions or concerns. A copy of the public information letter is included in this resubmission package for reference.

Public Comments

Public Comments

A.J. Clarke & Associates is in receipt of three (3) written comment letters from members of the public. In consultation with our clients, we have taken time to consider the concerns of neighbours. The concerns are summarized into major themes below. Our responses are outlined below each theme.

Maintenance and Access

AJC Response: The applicants, as owners of the subject lands have a legal right to utilize Hoto Line for access to their lands year-round. It is the intent of the applicants to work with the community to improve the overall function and quality of the road.

As noted above, the property owners are willing and happy to work with their neighbours to assist with costs related to the ongoing maintenance of Hoto Line. Further, the applicants are able to assist with plowing the road as necessary through the winter. The property owners note that currently, a bucket loader plows the snow, while the owners will use a proper plow with a snow blower to remove snow.

Further, should a dwelling be prohibited on this site, the only permitted use of the land would be agriculture. This would require the use of heavy farm related machinery, with the only access to the site being along Hoto Line. We anticipate that this would be far more detrimental to the overall quality and maintenance of the road than the typical use expected by a single family and personal vehicles. It is unlikely that any farm operation would have more vested interest in maintenance of the road than a family requiring daily access to the road and personal relations with neighbours.

Emergency Services

AJC Response: Emergency services staff noted through an email dated June 2020 that emergency service vehicles have the ability to access the site utilizing Hoto Line. As discussed above, the applicants will work with neighbours along the road to ensure maintenance is provided year-round.

Agricultural Uses

AJC Response: Some concern was expressed regarding the potential for agricultural uses on the subject lands, particularly raising of livestock. We would note that the subject lands permit a wide range of agricultural uses as-of-right. However, it is not the intent of the applicants to keep any livestock or other potential nuisances.

We would also note that if a dwelling is not permitted on the subject lands, the only other permitted use of the land will be agriculture. The only other option would be to keep the land vacant in perpetuity, which is neither logical from a planning perspective nor practical for the owner(s).

Year-Round Access

AJC Response: As has been confirmed by members of the public, there are currently numerous year-round dwellings on Hoto Line. While we appreciate that there are maintenance concerns during the winter, we have addressed these issues above.

The Hoto Line right-of-way is a private access which transverses the applicant's property. There are no limitations and what time of year the access may be utilized, regardless of what the use of the land is.

Precedent for Further Development along Hoto Line

AJC Response: As discussed earlier in this letter, the subject lands are the only vacant lot of record along Hoto Line and Erie Heights. Provincial and municipal planning policy prohibits any further severances of the existing lands, except in unique circumstances and typically for agricultural purposes.

As such, it is our position that this application is a unique situation which will not establish precedent for future development along Hoto Line or any other private road throughout the County.

Conclusion

We trust that the responses above are adequate to formulate your opinion for a Staff Report to Council. We request to be scheduled for the next available Committee date for our applications to be heard by Council.

If there are any questions regarding the responses provided above, please don't hesitate to contact our office. Furthermore, if any departmental comments that require a response from the applicants were inadvertently omitted, please do not hesitate to contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Miles Weekes".

Miles Weekes, RPP, MCIP
A. J. Clarke and Associates Ltd.

Encl.

Cc: Miranda Curley & Justin Moore (via e-mail)

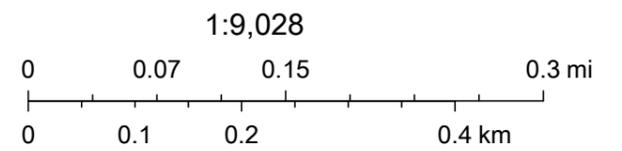
Appendix A

Map: Approximate setbacks to nearby farm facilities



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Appendix B

Images of Hoto Line (2014)



