



A. J. Clarke and Associates Ltd.
SURVEYORS • PLANNERS • ENGINEERS

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

May 7, 2021

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

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

A.J. Clarke & Associates Ltd. has been retained to assist the applicants in processing the ongoing applications for Official Plan Amendment (PLOP-HA-2020-191) and Zoning By-law Amendment (PLZ-HA-2020-192) pertaining to the subject lands, commonly known as O Hoto Line. The original intent of the applications was to permit a year-round dwelling, notwithstanding that the subject lands do not have frontage on a public road allowance as required per the County's Official Plan and Zoning By-law.

On April 20th, 2021 both applications were heard before the County's Council-in-Committee. Having regard for the questions and comments from members of the public, Staff, and Council, the applicants requested that both applications be deferred to a future meeting in order to be reassessed by Staff as a proposal for a seasonal dwelling.

At the direction of the applicants, we have formally revised the application to a seasonal dwelling. Accordingly, a year-round dwelling is no longer being contemplated for this site. The seasonal dwelling will be consistent with the County's definition of such a dwelling, with the general intent being that the dwelling will not operate during winter months. In our opinion, the proposed revision adequately addresses the various concerns identified by the various stakeholders who have provided comments to-date. Those concerns are generally addressed in the sections below.

The intent of this letter is therefore to confirm the revised application for a seasonal dwelling, as well as to present a revised planning rationale which reflects the change from a year-round to a seasonal dwelling.

1) Planning Policy Framework

The following section pertains to the applicable provincial and municipal policy framework that regulate land uses and development on the subject site. This section is intended to build off the original Planning Justification Report prepared by A.J. Clarke & Associates (dated December 2020) and which forms part of the original application submission package.



Provincial Policy Framework

We note that in Report PDD-26-2021 dated April 20th, 2021 County Staff concur that the original proposal for a year-round dwelling is consistent with the policies of the Provincial Policy Statement (2020) and the Growth Plan for the Greater Golden Horseshoe Area (2020). It therefore stands to reason that the same conclusion would be drawn for a seasonal dwelling. Accordingly, no further discussion of these provincial policy documents will be included for the purpose of this addendum.

Haldimand County Official Plan & Zoning By-law

The Haldimand County Official Plan provides more specific policy direction for new development within the County. The subject lands are designated 'Agriculture' as per the Official Plan. Along with the vast majority of lands within the County, the subject site is considered prime agricultural land as per the provincial definition based on soil classifications. Although the predominant land use within areas designated 'Agriculture' shall be agricultural uses, the Official Plan specifically permits a single-detached dwelling on any existing lot of record. As an existing lot of record, a seasonal single detached dwelling is therefore permitted on the subject lands.

However, we do note that the Official Plan also requires single-detached dwellings to have access and frontage on an open public road, among other requirements. The subject lands meet all necessary requirements for a single-detached dwelling, with the exception of frontage on an open public road.

This same requirement is outlined in the County's Comprehensive Zoning By-law. The subject lands are zoned 'Agriculture (A) Zone', and subject to an additional special provision. Consistent with the Official Plan, the parent 'A' Zone permits a single-detached dwelling as-of-right on the subject lands. However, the general provisions of the Zoning By-law state that any structure/building must have access and frontage on an improved street. Again, the proposal satisfies all zoning requirements save and except for the minimum frontage requirement. This is the crux of the proposed Official Plan and Zoning By-law amendments.

Resort Residential Nodes

Through on-going discussions with County Staff regarding the subject applications, Staff noted that a seasonal dwelling could not be permitted on the subject lands because the subject lands are located outside of a 'resort residential node'. To explore this conclusion, we note that Section F of the Official Plan outlines the various policies for development along the north shore of Lake Erie. Schedule D of the Official Plan identifies a number of Lakeshore Nodes – also referred to as 'resort residential nodes'. These nodes were designated by the County to accommodate lakeshore development within appropriate areas to protect Lake Erie. In these resort residential nodes, seasonal residences are the preferred type of dwelling. Staff's position on this matter is that a seasonal dwelling is not appropriate on the subject lands due to the fact that the site is located outside of a designated resort residential node.

We disagree with this conclusion on the basis that the subject lands do not form part of the Lakeshore Area, and therefore the resort residential node policies simply do not apply to the subject applications.

The Lakeshore Hazard Lands are sensitive environmental areas that were identified through detailed shoreline management plans prepared by conservation authorities. Section F of the Official Plan provides no direction to define the boundaries of the Lakeshore Area. The only direction provided in the Official Plan to identify the extent of the Lakeshore Area is found in Schedules A and E. Both schedules identify 'Lakeshore Hazard Lands', which are subject to the policies of Section 2.C.2 of the Official Plan. With no other policy direction provided in the Official Plan, it stands to reason that the Lakeshore Area is defined by the extent of the 'Lakeshore Hazard Area' – the lands which have been identified as having a sensitive relationship with Lake Erie.

As can be seen in Figure 1 below, it is clear that the subject lands are intended to be located outside of the 'Lakeshore Hazard Area'. It is therefore our opinion that the Lakeshore Area policies under Section F, including the resort residential node policies, do not apply in this instance.

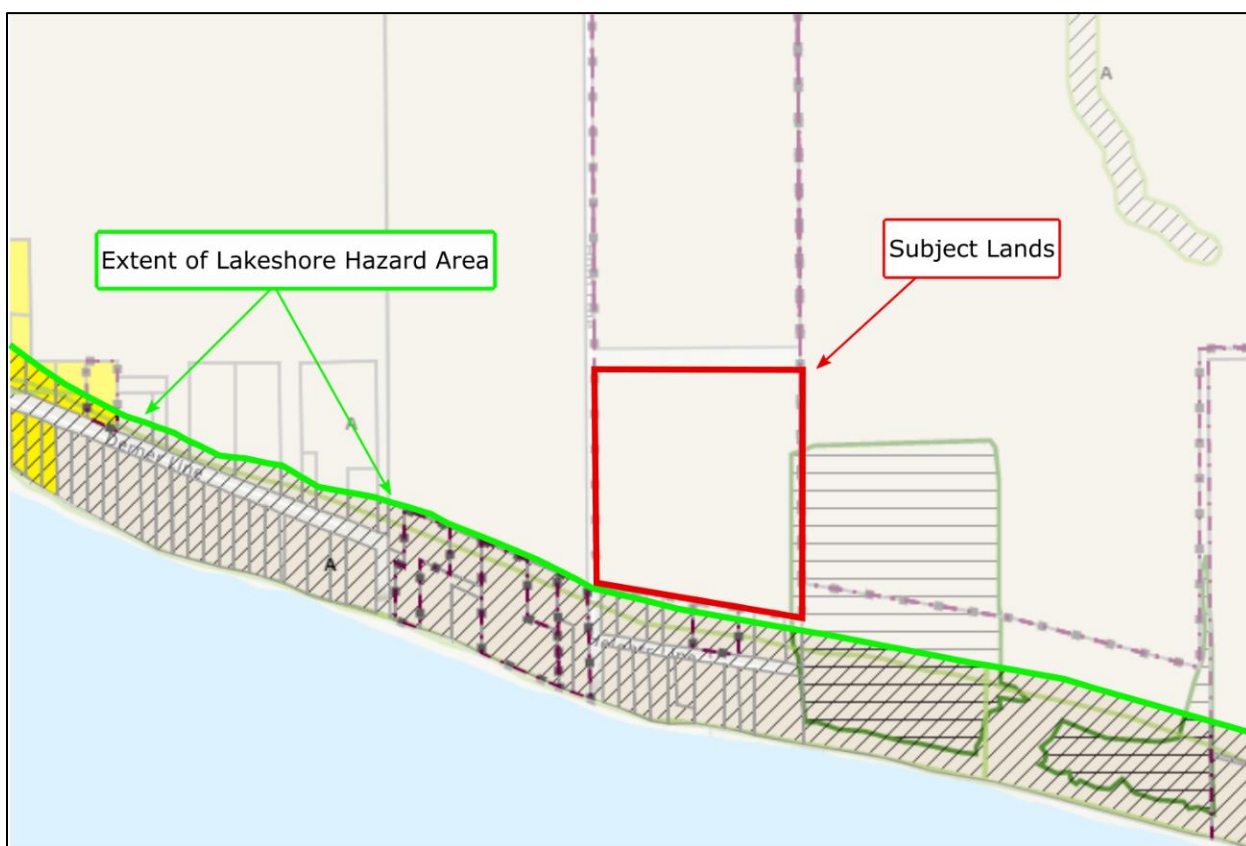


Figure 1: Haldimand County GIS Mapping of Lakeshore Hazard Area (haldimand.maps.arcgis.com).

2) Planning Rationale

To briefly summarize the policy overview above, we conclude that the subject lands are subject to the 'Agricultural' designation in the Official Plan and the 'Agricultural (A) Zone' in the Zoning By-law. Furthermore, it is our opinion that the subject lands do not form part of the Lakeshore Area and are not subject to the policies outlined under Section F of the Official Plan. Accordingly, we note that the proposed



seasonal dwelling is permitted on the subject lands, however it does not meet the requirement for frontage on a public road.

When assessing the appropriateness of these applications, it is important to consider both the local context and the compatibility of the proposed development with adjacent lands. It is our opinion that the proposed seasonal dwelling is appropriate for the subject lands given the surrounding context. In terms of land use compatibility, it is clear that a single-detached dwelling is appropriate adjacent to other single-detached dwellings and agricultural lands. This is a common interface seen throughout the County and broader Province. As such, the only issue pertains to the use of Hoto Line (a private road) for access to a seasonal dwelling.

In reviewing the context of the site, it was noted that there is an existing wind turbine located approximately ± 650 metres from the proposed location of the seasonal dwelling. At the time of writing, there are ongoing discussions with County Staff and Mr. Tom Humphrey, site manager for the wind turbine operated by ENGIE Canada Inc, to determine what (if any) measures need to be taken to ensure the safety of a dwelling in relative proximity to a wind turbine. At this time, it does not appear there are any regulations which restrict the location of the dwelling relative to the wind turbine, and we would also note that there are other dwellings located much closer (± 280 metres) to the Turbine. Nonetheless, the applicants are willing to work with ENGIE Canada Inc. to ensure that both current and future property owners are aware of potential noise nuisances resulting from the turbine. Accordingly, the applicants are amenable to placing a legal agreement on title of the subject lands which would make any future owner aware of the potential noise source prior to purchase. This agreement would be crafted in coordination with ENGIE Canada Inc. We note that such an agreement would only be prepared should it ultimately be deemed to be an appropriate measure by ENGIE Canada Inc. and the applicants. Those discussions are ongoing at this time, although we expect a resolution on this matter prior to a hearing before Council.

Through the review process, County Staff noted concern regarding the potential loss of prime agricultural lands. In response, we note that a residential dwelling is a standard permitted use on any agricultural land in the County (or any other municipality) – regardless of seasonal or year-round use. In order to minimize potential loss of viable agricultural land, the applicants have specifically located the proposed dwelling in the southwest corner of the site, leaving the vast majority of the site untouched. Further to this, the applicants intend to continue farming the balance of the lands. Accordingly, it is our opinion that the proposal adequately minimizes the loss of prime agricultural lands. It is also important to bear in mind that if the exact same land were fronting along a public road, the subject applications would not be necessary. The point is simply that under ordinary circumstances, the proposed seasonal dwelling on agricultural land would not even be discussed – it would be a standard permitted use by both provincial and municipal standards. The only factor which differentiates this land from any other agricultural land is the lack of frontage on a public road.

Hoto Line is an existing private road which provides legal access to North Shore Drive for the subject lands, as well as more than a dozen other seasonal and year-round dwellings. Despite this fact, there have been a variety of concerns raised throughout the review process regarding the use of Hoto Line for access – particularly for a year-round dwelling (as per the original proposal). It is our opinion that the revised proposal for a seasonal dwelling can effectively satisfy all concerns pertaining to the use of the private road for access to the subject lands. This specific matter is discussed in greater detail in Section 3 of this addendum.



3) Private Road – Maintenance, Safety, and Liability

The primary concerns noted throughout the application process by Staff, the public, and Council pertain to the use, maintenance, safety, and liabilities associated with the use of Hoto Line for a single-detached dwelling. Based on the foregoing policy discussion, it is our opinion that the only outstanding issues to be resolved revolve around the use of a private road for access to a seasonal dwelling. Through the technical review and public consultation processes, numerous concerns were highlighted with regards to the use of the subject lands for a dwelling. This section is intended to specifically identify and address each of those concerns.

Overview of Comments/Concerns

Firstly, there were concerns that the original proposal for a year-round dwelling and the ensuing year-round use of Hoto Line would cause additional damage to the road during the winter months. If such damage occurs, how would the costs associated with the maintenance of the road be fairly distributed amongst neighbouring owners? Furthermore, who would be responsible for clearing and plowing the road during the winter months?

Beyond the maintenance of the road, County Staff expressed specific concern regarding safety and liability issues for a year-round dwelling. The primary thrust of these concerns pertained to the ability for emergency services to access the site year-round. Emergency Services noted that they could not be guaranteed during the winter months in the event of significant snowfall without standard municipal plowing and maintenance services. This would therefore create a liability for the County in terms of the life and safety of future residents. Although an option(s) was presented by Staff to prepare legal agreement(s) to absolve the County of any such liability was presented, the ultimate concern of Council was the life and safety of future residents.

Finally, Staff raised concern regarding potential future pressure for the County to adopt the private road and assume responsibility for its maintenance. Although the private road is already utilized for access by roughly 15 dwellings, Staff expressed concern that an additional dwelling might increase pressure on the County.

Response to Comments/Concerns

By revising the application to a seasonal dwelling, it is our opinion that all of the concerns noted by the public, Staff, and Council can be appropriately satisfied.

With regards to the concerns regarding costs and maintenance of the road, the concerns expressed by neighbours and staff are satisfied. Whereas a year-round dwelling presented potential issues pertaining to fair cost-sharing and ongoing maintenance, a seasonal dwelling eliminates those concerns by eliminating winter access. It also eliminates concerns regarding costs to plow the road and additional damages that may arise as a result of plowing. Should the seasonal dwelling be permitted, road maintenance would be done as has historically (and currently) been the case – through a cost-sharing program amongst the roughly 15 homeowners that utilize Hoto Line to access their lands.



We would also note that County Staff reached out to Mr. Tom Humphrey, a site manager for Wind and Solar Ontario East (WSOE) – the company responsible for the wind turbines in the area). Mr. Humphrey noted that the company maintains only that portion of Hoto Line from the last full-time residence to the turbine access – this maintenance work includes spring grading, gravel, and tree trimming as needed. It is our position that this confirmation further supports the proposal for a seasonal dwelling, confirming that additional ongoing road maintenance is provided by WSOE – albeit for only a portion of the overall private road.

In addition to road maintenance, it is our opinion that the revised proposal for a seasonal dwelling resolves the issue of safety and access for Emergency Services (EMS). Through correspondence with County Staff (see Appendix A), it has been confirmed that Emergency Services can guarantee access the site during the non-winter months (April/May to end of October) – provided that the road is maintained and trees along the roadside of cut back as needed. To this end, the applicants continue to be willing to enter in a legal agreement with the County which would serve two general purposes:

- 1) To maintain Hoto Line (up to the subject site) to a serviceable standard and to maintain the adjacent trees/vegetation along the side of the road as necessary; and,
- 2) To absolve the County of liability in the event that EMS is unable to access the site.

The ultimate details of any legal agreements would be resolved in coordination between the applicants and their legal representative(s), and the County's legal department. In addition to any legal agreements, the applicants would be happy to provide sufficient area within their future driveway for any EMS vehicles to safely turnaround and exit the site in a forward direction, if that would further improve access for EMS. The applicants are also willing to provide a pond on-site if there is any additional need for EMS access to water. We feel the proposal and solutions identified above adequately satisfy all concerns regarding safety and any potential liability risks on the County's behalf.

Regarding the concerns raised by Staff concerning pressure for the County to adopt the private road, we maintain our original position that this private road already exists and is already being utilized by roughly 15 dwellings. It is not reasonable to assume that the addition of one (1) additional dwelling will suddenly create a situation in which the County will be pressured to adopt or otherwise take responsibility for the private road (now or in the future).

Finally, we would make note that the County appears to be the legal owner of a portion of Hoto Line – being Part 3 on Plan 18R-7104 (see Appendix B). As per the legal opinion provided by the office of McCarthy & Fowler (see Appendix C), Part 3 is a municipal road allowance owned by the Corporation of Haldimand County. Accordingly, it stands to reason that the County in fact has some stake in the overall function/maintenance of Hoto Line. This is certainly a unique circumstance and appears to be remnant lands from a historic concession road allowance that (to our knowledge) was not formally closed. The office of A.J. Clarke & Associates Ltd. does not make any representations about any specific legal obligations or responsibilities on the County's part for that section of the road – however we would like to raise this matter as it does help to further establish the uniqueness of this application. We would be happy to further discuss this matter with Staff, as deemed necessary.



Conclusion

In conclusion, it is our opinion that a seasonal dwelling on the subject lands is appropriate. The proposed use is compatible within the context of the surrounding neighbourhood, and will result in minimal loss of viable prime agricultural land. We also note that the applicants would be willing to enter into an agreement on title which acknowledges the potential nuisance cause by a wind turbine – should such an agreement be deemed necessary in consultation with ENGIE Canada Inc. From a policy perspective, the proposed use would be permitted as-of-right by both the Official Plan and the Zoning By-law, however the site does not have frontage on a public road.

Regarding the use of Hoto Line (a private road), we feel that the revision to a seasonal dwelling adequately addresses all concerns raised by Staff, Council, and the public. Staff have confirmed that Emergency Services can access the site during non-winter months, and the applicants are still willing to enter into a legal agreement(s) which commits to maintain the road to a serviceable standard and absolves the County of liability in the event that Emergency Services cannot access the site. Again, the details of those agreements would be coordinated between the County's legal department and the applicant's solicitor. It is our opinion that this is appropriate land use planning rationale to permit the proposed seasonal dwelling.

We trust that the policy discussion and revisions to the application discussed above are adequate to formulate your opinion for a Staff Report to Council. We request to be scheduled for the next available Council-in-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.

Yours very truly,

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

Encl.

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

Appendix A

Confirmation of EMS Access

Miles Weekes

From: Ashley Taylor <ataylor@haldimandcounty.on.ca>
Sent: May 5, 2021 12:36 PM
To: Miles Weekes
Cc: Shannon VanDalen; Alisha Cull; Steve Fraser; Al Gee; Miranda Curley
Subject: RE: [EXTERNAL] RE: Wind turbines on Hoto Line - Mohawk Point wind farm
Attachments: 20210504_111337.jpg

Hi Miles,

Thank you for your email and comments. Al Gee provided the following comments from site inspection yesterday:

They are working on the road right now as we speak. It looks good but I would still put in the agreement they need to keep the road up and cut the trees and bushes back from the roadway.

Thank you,



Ashley Taylor

Planner - Planning & Development
 Haldimand County Administration Building
 53 Thorburn St. S., Cayuga, ON N0A 1E0
Phone: 905-318-5932 x6201 **Web:** HaldimandCounty.ca

From: Miles Weekes [mailto:miles.weekes@ajclarke.com]
Sent: Wednesday, May 5, 2021 12:14 PM
To: Ashley Taylor <ataylor@haldimandcounty.on.ca>
Cc: Shannon VanDalen <svandalen@haldimandcounty.on.ca>; Alisha Cull <acull@haldimandcounty.on.ca>; Steve Fraser <steve.fraser@ajclarke.com>; 'Thomas.HUMPHREY@engie.com' <Thomas.HUMPHREY@engie.com>; Al Gee <agee@haldimandcounty.on.ca>; Miranda Curley <mir-12-mir@hotmail.com>
Subject: RE: [EXTERNAL] RE: Wind turbines on Hoto Line - Mohawk Point wind farm

Hi Ashley,

I've outlined my comments/thoughts below based on your original numbering.

- 1) Thanks for the information below. I have looped in Miranda and Justin as they will certainly want to be aware of any new requirements regarding the wind turbine that are just coming up now. We would certainly hope that if this is determined to be an issue, that we are provided with references to the applicable regulations that may apply to the proposed seasonal dwelling. Please continue to cc use in correspondence with Mr. Humphrey.
- 2) Regarding emergency service requirements:
 - We acknowledge that EMS Staff have confirmed availability of services for non-winter months.
 - Road maintenance and tree maintenance is an ongoing process. Without knowing the time of year and context of the visit, I cannot comment on potholes. The intent is to maintain the road as needed with neighbours, as is currently the case.
 - Please let us know Al's findings of the site visit. Again, road maintenance is an ongoing matter that we feel will be improved with the additional contributions from the applicants.

We will provide you with a planning rationale addendum/memo no later than Friday May 7th (as previously discussed), speaking to the revised proposal for a seasonal dwelling and the various concerns we have discussed over the last week or two.

Miles Weekes M.Pl., MCIP, RPP

Planner

A. J. Clarke and Associates Ltd.

Tel: 905 528 8761 x 286

From: Ashley Taylor <ataylor@haldimandcounty.on.ca>

Sent: May 4, 2021 9:53 AM

To: Miles Weekes <miles.weekes@ajclarke.com>

Cc: Shannon VanDalen <svandalen@haldimandcounty.on.ca>; Alisha Cull <acull@haldimandcounty.on.ca>; Steve Fraser <steve.fraser@ajclarke.com>; 'Thomas.HUMPHREY@engie.com' <Thomas.HUMPHREY@engie.com>; Al Gee <agee@haldimandcounty.on.ca>

Subject: FW: [EXTERNAL] RE: Wind turbines on Hoto Line - Mohawk Point wind farm

Hi Miles,

I can offer you the following as an update:

1. I spoke to Tom Humprey, Site Manager – Wind and solar Ontario East (cc'ed on this email). Please see the email below.
 - He is looking into the safety circle around the wind turbines for noise, ice throw, etc. My understanding from Mr. Humprey is that when they built the wind turbines, they needed to be a minimum of 300 metres from existing dwellings. Today, the standard is 750 metres from dwellings. He is reviewing the implications of a new dwelling (year round or seasonal) in this area and options (i.e. letter of acknowledgement / agreement related to nuisances associated with the wind turbine). His contact information is below if you would like to personally reach out to Mr. Humprey to discuss. Any information I receive, I will provide to you through the process.
 - Mr. Humprey notes that the snow gets fairly deep along Hoto Line. The wind turbine company only plows Hoto Line to their wind turbine if they have scheduled or emergency maintenance and only for the duration of the maintenance. They do not plow the road year round or when they are not planning to visit the wind turbine.
2. Planning Staff met with Emergency Services Staff. The following would need to be completed from an emergency services perspective:
 - Emergency Service access can only be guaranteed outside of the winter months (i.e. April/May – end of October)
 - During site inspection last year there were a number of significant pot holes and trees that would impact emergency services – this would need to be fixed if it hasn't been and the expectation would be that the road and tree clearing occur as required.
 - I know there was some information submitted that some of this had been taken care of because some trucks were traveling down the private lane to fix a property. Al Gee, Fire Prevention Officer is going to visit the site again to review.

My other comments relating to policy and land use still stand.

If you would like to discuss via phone or zoom please let me know.

Thank you,



Ashley Taylor

Planner - Planning & Development
Haldimand County Administration Building
53 Thorburn St. S., Cayuga, ON N0A 1E0
Phone: 905-318-5932 x6201 **Web:** HaldimandCounty.ca

From: Thomas.HUMPHREY@engie.com [<mailto:Thomas.HUMPHREY@engie.com>]

Sent: Monday, May 3, 2021 11:03 AM

To: Ashley Taylor <ataylor@haldimandcounty.on.ca>

Subject: [EXTERNAL] RE: Wind turbines on Hoto Line - Mohawk Point wind farm

Caution

This email is NOT from a Haldimand County Employee

Good morning and thank you for reaching out.

I tried calling, but your extension just hangs up. Feel free to call me back to discuss this.

I am responsible for the turbines at 111 Farr and 57 Hoto (municipal numbers for the turbine access roads), but I know nothing about a turbine at 10 Hoto. The site was originally constructed with a 300m setback to existing homes, but I don't have a ready answer for new residences built around existing turbines. We are investigating what the appropriate response should be and will get back to you promptly.

Where in the highlighted area is the planned residence?

Tom Humphrey
Site Manager – Wind and Solar Ontario East
Aim SOP and Plateau Wind
Brockville and Beckwith Solar

cell: 226.668.6565
email: thomas.humphrey@engie.com

Corporate Address -
ENGIE Canada Inc.
105 Commerce Valley Dr. West, Suite 410
Markham, Ontario, Canada L3T 7W3

Plateau Shipping Address -
Plateau Wind
2-713 Industrial Rd
Shelburne, Ontario, Canada L9V 2Z4



From: Ashley Taylor <ataylor@haldimandcounty.on.ca>

Sent: Friday, April 30, 2021 2:39 PM

To: HUMPHREY Thomas (ENGIE North America) <Thomas.HUMPHREY@engie.com>; GREEN Eric (ENGIE North America) <eric.green@engie.com>

Subject: ⚠️ FW: Wind turbines on Hoto Line - Mohawk Point wind farm
Importance: High

Good afternoon,

I received your contact information from the Ministry of Environment, Conservation and Parks (MECP).

Haldimand County has been reviewing planning applications to permit a house or cottage on Hoto Line, having no municipal address. Please see the screenshot below – the property with the proposed house is highlighted in yellow. There are some wind turbines located in the area – at 10 Hoto Line, 17 Hoto Line, and 93 Farr Road.

I requested the minimum setback from the wind turbines to the proposed house from the MECP. They stated that I would need to reach out to the wind turbine company for setback requirements.

I am wondering if you can provide the minimum setback requirements between the existing wind turbines and the proposed house, and if you have any concerns?

Thank you,

Ashley



Ashley Taylor


Planner - Planning & Development

Haldimand County Administration Building

53 Thorburn St. S., Cayuga, ON N0A 1E0

Phone: 905-318-5932 x6201 Web: HaldimandCounty.ca

DISCLAIMER: This e-mail and any attachments may contain personal information or information that is otherwise confidential. If you are not the intended recipient, any use, disclosure or copying of any part of it is prohibited. Haldimand County accepts no liability for damage caused by any virus transmitted in this message. If this e-mail is received in error, please immediately reply and delete or destroy any copies of it. The transmission of e-mails between an employee or agent of Haldimand County and a third party does not constitute a binding contract without the express written consent of an authorized representative of The Corporation of Haldimand County.

 This symbol is automatically added to emails originating from outside of the organization. Be extra careful with hyperlinks and attachments.

ENGIE Mail Disclaimer: <http://www.engie.com/disclaimer/>

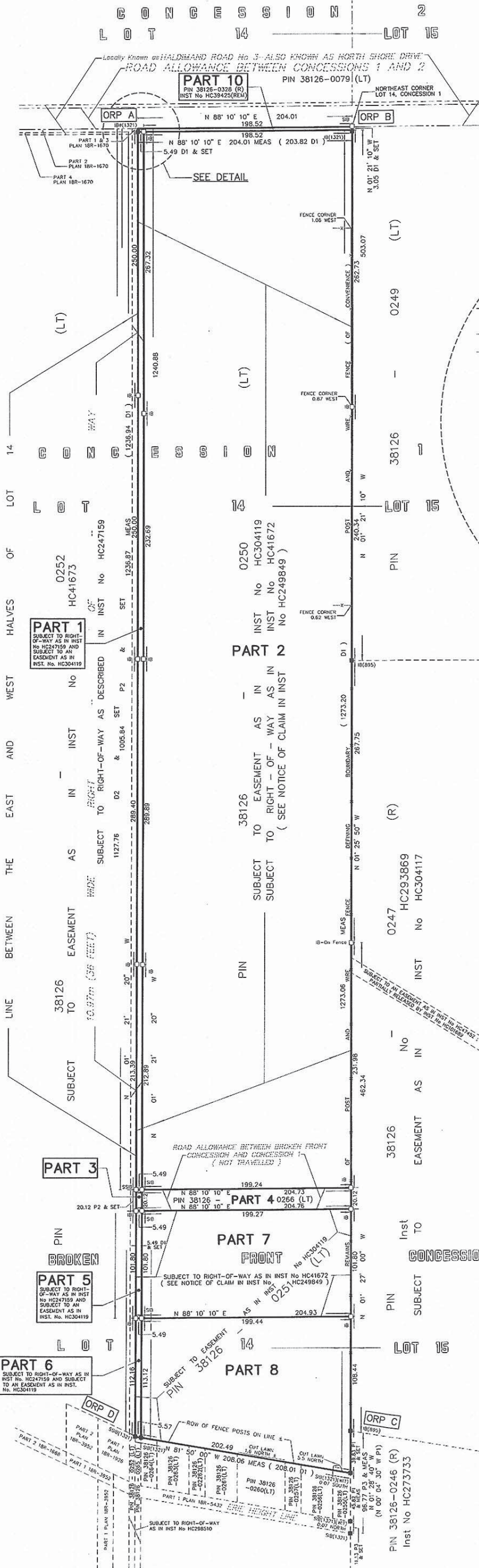
DISCLAIMER: This e-mail and any attachments may contain personal information or information that is otherwise confidential. If you are not the intended recipient, any use, disclosure or copying of any part of it is prohibited. Haldimand County accepts no liability for damage caused by any virus transmitted in this message. If this e-mail is received in error, please immediately reply and delete or destroy any copies of it. The transmission of e-mails between an employee or agent of Haldimand County and a third party does not constitute a binding contract without the express written consent of an authorized representative of The Corporation of Haldimand County.

DISCLAIMER: This e-mail and any attachments may contain personal information or information that is otherwise confidential. If you are not the intended recipient, any use, disclosure or copying of any part of it is prohibited. Haldimand County accepts no liability for damage caused by any virus transmitted in this message. If this e-mail is received in error, please immediately reply and delete or destroy any copies of it. The transmission of e-mails between an employee or agent of Haldimand County and a third party does not constitute a binding contract without the express written consent of an authorized representative of The Corporation of Haldimand County.

Appendix B
Plan 18R-7104

PLAN OF SURVEY OF
PART OF LOT 14
BROKEN FRONT CONCESSION
PART OF LOT 14, CONCESSION 1
PART OF THE ROAD ALLOWANCE
BETWEEN BROKEN FRONT
CONCESSION AND CONCESSION 1
GEOGRAPHIC TOWNSHIP OF SHERBROOKE
HALDIMAND COUNTY

SCALE 1 : 2000
RASCH & HYDE LTD.
ONTARIO LAND SURVEYORS



I REQUIRE THIS PLAN TO BE
DEPOSITED UNDER THE LAND TITLES
ACT AND THE REGISTRY ACT.

September 9, 2013

DATE

HAROLD D. HYDE
ONTARIO LAND SURVEYOR

PLAN 18DD-35-2021, Attachment 2

RECEIVED AND DEPOSITED

September 9, 2013

DATE

"Jalan"
REPRESENTATIVE FOR LAND REGISTRAR
FOR THE LAND TITLES AND REGISTRY
DIVISION OF HALDIMAND (No. 18)

LAND TITLES SCHEDULE

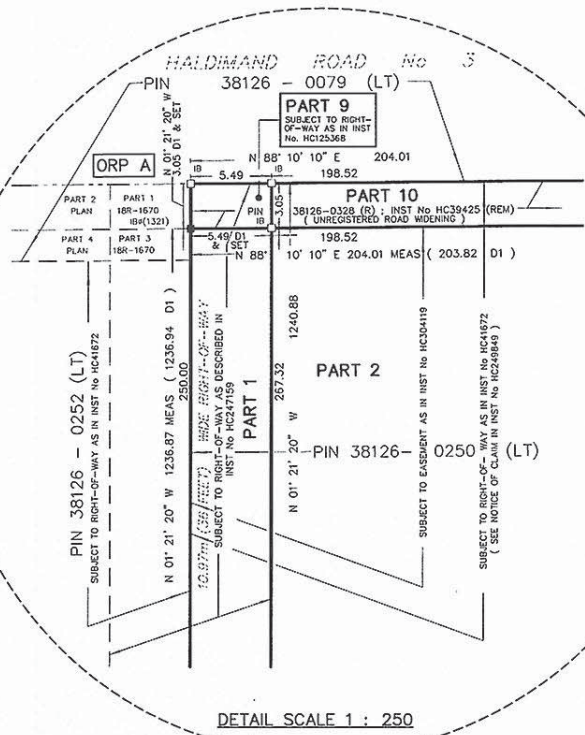
| PART | LOT | CONCESSION | PIN NO |
|------|----------------|--------------|-------------------------------|
| 1 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0250 (LT) |
| 2 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0266 (LT) |
| 3 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0251 (LT) |
| 4 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0251 (LT) |
| 5 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0251 (LT) |
| 6 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0251 (LT) |
| 7 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0251 (LT) |
| 8 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0251 (LT) |

PARTS 1, 2, 5, 6, 7 and 8 ARE SUBJECT TO EASEMENT AS IN INST No HC304119
PARTS 1, 2, 5, and 7 ARE SUBJECT TO RIGHT-OF-WAY AS IN INST No HC41672
(SEE NOTICE OF CLAIM IN INST No HC249849)
PARTS 1, 5, and 6 ARE SUBJECT TO A RIGHT-OF-WAY AS IN HC247159

REGISTRY SCHEDULE

| PART | LOT | CONCESSION | PIN NO |
|------|----------------|--------------|------------------------------|
| 9 | PART OF LOT 14 | CONCESSION 1 | ALL OF PIN 38126-0328 (R) |
| 10 | PART OF LOT 14 | CONCESSION 1 | INST No HC39425 (REM) |

PARTS 9 and 10 ARE SUBJECT TO RIGHT-OF-WAY AS IN INST No HC41672
(SEE NOTICE OF CLAIM IN INST No HC249849)
PART 9 IS SUBJECT TO A RIGHT-OF-WAY AS IN HC247159 AND HC125368



METRIC NOTE

DISTANCES and COORDINATES SHOWN ON THIS PLAN ARE IN
METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

LEGEND

- D — DENOTES SURVEY MONUMENT PLANTED
- F — DENOTES SURVEY MONUMENT FOUND
- SIB — DENOTES STANDARD IRON BAR (25mmX25mmX120cm)
- SSIB — DENOTES SHORT STANDARD IRON BAR (25mmX25mmX60cm)
- IB — DENOTES IRON BAR (15mmX15mmX60cm)
- IRB — DENOTES ROUND IRON BAR (20mm DIA X 60cm)
- IT — DENOTES IRON TUBE
- WT — DENOTES WITNESS
- OU — DENOTES ORIGIN UNKNOWN
- PIN — DENOTES PROPERTY IDENTIFIER NUMBER
- ORP — DENOTES OBSERVED REFERENCE POINT
- (1321) DENOTES RASCH & HYDE O.L.S.
- (895) DENOTES CLARKE & LANE O.L.S.
- P1 DENOTES PLAN BY RASCH & CHAMBERS LTD. DATED
AUGUST 9, 1995 (FILE 95-067; F-834)
- P2 DENOTES REGISTERED PLAN No 23 (TOWNSHIP OF SHERBROOKE)
- P3 DENOTES PLAN 18R-5432
- D1 DENOTES INSTRUMENT No HC247159 (FIRSTLY);
PIN 38126-0250 (LT) AND PIN 38126-0251 (LT)
- D2 DENOTES INSTRUMENT No HC41672;
PIN 38126-0250 (LT) AND PIN 38126-0251 (LT)
- REM DENOTES REMAINDER

BEARING NOTE

BEARINGS HEREON ARE GRID, UTM ZONE 17, (NAD 83-
CSRS (Epoch 1997.0)) DERIVED FROM OBSERVED REFERENCE POINTS
(ORPs) USING THE CAN-MET VRS NETWORK AND ARE REFERRED TO
THE CENTRAL MERIDIAN OF UTM ZONE 17 (61° WEST LONGITUDE)

INTEGRATION DATA

| POINT ID | NORTHING | EASTING |
|----------|-------------|------------|
| ORP A | 4746052.585 | 622576.964 |
| ORP B | 4746059.096 | 622780.817 |
| ORP C | 4744823.588 | 622811.132 |
| ORP D | 4744812.555 | 622611.783 |

ALL COORDINATES ARE IN METRES AND ARE UTM-ZONE 17, (NAD 83-
CSRS (Epoch 1997.0)) (CENTRAL MERIDIAN 81° WEST LONGITUDE).

COORDINATE VALUES ARE TO AN URBAN ACCURACY IN ACCORDANCE
WITH SECTION 14 (2) OF O. REG 216/10.

CAUTION

COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH
CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

DISTANCES ARE ADJUSTED GROUND DISTANCES AND CAN BE
CONVERTED TO GRID DISTANCES BY MULTIPLYING BY THE
AVERAGE COMBINED SCALE FACTOR (CSF = 0.99987464)

SURVEYOR'S CERTIFICATE

- I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE
WITH THE SURVEYS ACT, THE SURVEYORS ACT, THE LAND TITLES ACT
AND THE REGISTRY ACT AND THE REGULATIONS MADE UNDER THEM.
2. THIS SURVEY WAS COMPLETED ON THE 8th DAY OF JULY 2013.

September 9, 2013

DATE

HAROLD D. HYDE
ONTARIO LAND SURVEYOR

RASCH & HYDE LTD.
Ontario Land Surveyors

| | |
|---|---|
| P.O. Box 6, 1333 Highway #3 East, Unit B DUNNVILLE, ONT. N1A 2X1 905-774-7188 (FAX 905-774-4000) | P.O. Box 550, 74 Jarvis Street FORT ERIE, ONT. L2A 5Y1 905-871-9757 (FAX 905-871-9748) |
| R. DESMOND RASCH O.L.S. | HAROLD D. HYDE O.L.S. |
| SCALE 1 : 2000 | SURVEY : 13-084 |

F-1544

Appendix C

McCarthy & Fowler Legal Memo

McCARTHY & FOWLER

BARRISTERS & SOLICITORS
17 Main Street South
Hagersville, Ontario N0A 1H0

C. EDWARD MCCARTHY, B.A., LL.B.
MICHAEL W. FOWLER, B.A., LL.B.
(operating in association, not in partnership)

Telephone: (905) 768-3553

FAX: (905) 768-1567

May 20, 2020

Mr. Bill Zhuan

Dear Sir:

Re: PIN No. 38126-0251 (LT) - PT LT 14 CON BROKEN FRONT SHERBROOKE PTS 5, 6, 7, & 8 18R7104; S/T & T/W HC247159; S/T HC304119, HC41672; HALDIMAND COUNTY

Please be advised that I have had an opportunity to review your title and in particular your PIN sheet, a copy of which is attached hereto. I have had an opportunity to examine reference plan 18R-7104 together with Instrument No. HC247159. I understand that you have a copy of the reference plan. Enclosed with this letter is the following:

- PIN 38126-0250
- PIN 38126-0251 being your title
- PIN 38126-0266
- Instrument No. HC247159.

In your PIN sheet your property is described as PT LT 14 CON BROKEN FRONT SHERBROOKE PTS 5, 6, 7, & 8 18R7104; S/T & T/W HC247159; S/T HC304119, HC41672; HALDIMAND COUNTY.

I can advise that HC41672 is a Union Gas right-of-way. I can advise that Instrument No. 304119 is a right-of-way in favour of AIM SOP Phase I GP Inc. which is a wind turbine operation. In addition Instrument No. HC247159 is a transfer to a predecessor in title of yours which includes a right-of-way. That right-of-way is mentioned in reference plan 18R-7104. You will note, that in the reference plan it states on the upper right hand portion that "PARTS 1, 5 AND 6 ARE SUBJECT TO A RIGHT-OF-WAY AS IN HC247159. This is the T/W (together with) and S/T (subject to) that are mentioned in the property description on your PIN 38126-0215. Therefore, you have a right-of-way over PT 1 on reference plan 18R-7104 but your lands are subject to a right-of-way over PTS 5 and 6 on said reference plan.

It is not necessary for you to have a right-of-way over PT 3 on the reference plan as it forms part of a road allowance owned by the Corporation of Haldimand County and, since it is a road allowance, the public has a right to pass over PT 3.

Therefore it is my submission, that your right-of-way is clearly described to your predecessors in title in Instrument No. HC247159. This right is preserved in your PIN 38126-0251(LT) property description

Page 2

and you need nothing further to establish your right of passage over PT 1 in order for you to access your property being PTS 5, 6, 7 and 8 on reference plan 18R-7104.

It would appear that the owner of PT 1 is Martin Miedema and Linda Storie as shown in PIN 38126-0250. You have every right to pass over PT 1 on the reference plan in order to access your land as it is clearly established on your PIN sheet.

The owners have no right to prevent you from accessing your land given the legal description you have.

Should you have any further questions please do not hesitate to contact me.

I am enclosing a copy of our account for services rendered to date which reflects your retainer.

Sincerely yours

McCARTHY & FOWLER

A handwritten signature in black ink, appearing to read 'Michael W. Fowler', is written over the printed name.

Michael W. Fowler

MWF:tmt

Encl.