

**STAFF REPORT: Planning & Building Services Department**



**REPORT TO:** Planning & Building Committee  
**MEETING DATE:** Monday, July 5, 2010  
**REPORT NO.:** PL.10.61  
**SUBJECT:** Request for Comments  
Niagara Escarpment Commission  
File No. G/S/2010-2011/9046  
Tom McConnell  
Part Lot 17, Concession 6;  
Town of The Blue Mountains

**PREPARED BY:** Bryan Pearce,  
Planner I

**A. Recommendations**

**THAT Council advise the Niagara Escarpment Commission that the Town has no objections to Development Permit Application File No. G/S/2010-2011/9046; legally described as Part Lot 17, Concession 6; Town of The Blue Mountains; subject to the following conditions:**

- 1. That comments be received from County of Grey Planning and Development Department with regards to the thin overburden topography, to the satisfaction of the Niagara Escarpment Commission.**
- 2. That the proponent have a qualified individual conduct a cultural heritage assessment to determine if there is significant cultural heritage features in the development area, if applicable with comments received by the County of Grey Planning and Development Department, to the satisfaction of the Niagara Escarpment Commission.**

**B. Background**

The purpose of this Report is to consider and to develop comments related to a Development Permit Application (DPA) filed with the Niagara Escarpment Commission (NEC) with respect to a proposal to establish a solar powered electrical grid-tie system, consisting of an 11.3 kilowatt (kW) solar array on a 21.7 hectare (53.5 acre) lot.

The DPA notes that the electricity produced would provide electricity to the existing house and barn and feed into Hydro One's interconnect system through the Ontario Power Authority (OPA) Feed-in-Tariff (Micro FIT) program. The proposed solar facility would consist of the following:

- Four (4) pedestal-mounted 20.5 square metre (220 square foot) arrays, each with 12,235 watt solar modules for a total of 48 panels.
- Non-tracking adjustable frames area mounted on the top of pedestals that extend 2 metres (7 feet) below grade, anchored in a 0.9 metre (3 foot) diameter concrete base

- Covering an area of approximately 186 square metres (2000 square feet)

It should be noted that the proponent submitted a DPA in 2005 for an addition to the existing dwelling, complimenting the existing barn on the subject lands.

Access to the subject lands is provided onto 5<sup>th</sup> Line, an open and maintained municipal road.

### ***Green Energy and Green Economy Act, 2009***

The *Green Energy and Green Economy Act, 2009 (Act)* amended various sections of the *Planning Act* to provide that the following do not apply to renewable energy undertakings (defined as renewable energy generation facilities, projects, testing facilities or testing projects):

1. Policy statements and provincial plans, with certain exceptions.
2. Section 24, which requires public works and by-laws to conform with official plans.
3. Demolition control by-laws under section 33.
4. Zoning by-laws and related by-laws and orders under Part V, with a transitional exception for existing agreements under that Part.
5. Development permit regulations and by-laws under section 70.2.
6. By-laws under section 113 or 114 of the City of Toronto Act, 2006.
7. Orders under section 17 of the Ontario Planning and Development Act, 1994.
8. Leases for the purposes of renewable energy generation facilities or renewable energy projects are exempt from subdivision control and part-lot control under section 50 of the Planning Act if they are for periods of 50 years or less.

Although local planning tools are not in effect per the *Act*, it is appropriate that the Town comment on the application from a land use planning and community perspective.

### **Town Official Plan**

The subject lands are designated as Rural (R) and Hazard (H) in the Town of The Blue Mountains Official Plan. The development proposal would be located in the center of the subject property along the north/south ridge, north of the existing dwelling, within the Rural (R) designation of the Official Plan. The Hazard (H) designation is associated with western portion of the subject property where there is a watercourse flowing northeast through a depression on the topography.

The property has been identified as an Archaeological Area under Appendix "D" of the Official Plan. Section 8.11 of the Plan ensures that cultural heritage features are protected, preserved and enhanced as further indicated by the province. Therefore as a condition of support, the proponent have a qualified individual conduct a cultural heritage assessment to determine if there is significant cultural heritage features in the

development area, if applicable with comments received by the County of Grey Planning and Development Department on Archaeological Resources through the Province's One Window process, to the satisfaction of the NEC.

The property has been identified as Thin Overburden Areas under Appendix "E" of the OP. Section 8.16 of the OP requires the preparation of an EIS if karst topography is present in order to minimize the risk of contamination of water resources. Planning Staff recommends this as a condition to this application that comments be received from County of Grey Planning and Development Department through the Province's One Window process, to the satisfaction of the NEC.

Again, renewable energy projects are not subject to the Town's Official Plan policies based on the *Act*, but the subject lands are located within the Niagara Escarpment Plan Area and must be in conformity with the Niagara Escarpment Plan (see comments below).

### **Township of Collingwood Zoning By-law No. 83-40, as amended**

Not applicable per the *Act* (It is noted that the subject lands are located in an area affected by Niagara Escarpment Development Control Area and Zoning would not apply in any event).

### **Niagara Escarpment Plan**

The Niagara Escarpment Plan (NEP) was also amended by the *Act* by including renewable energy projects within the definition of "utility":

*Utility — a water supply; storm or sanitary sewage system; gas or oil pipeline; the generation, transmission and distribution of electric power, including renewable energy projects as defined in the Green Energy Act, 2009, commercial or otherwise, and all associated infrastructure; the generation, transmission and distribution of steam or hot water; telegraph and telephone lines and other cabled services; a public transportation system; licensed broadcasting, receiving and transmitting facilities; or any other similar works or systems necessary to the public interest, but does not include...*

The NEP designates the subject lands as Escarpment Protection Area. Section 1.4 policies under "Escarpment Protection Area" list "utility facilities" as a permitted use.

### **Additional Comments**

Planning Staff notes an issue of concern with this DPA, as the proposal is described as having a solar array capacity of 11.3 kW with an inverter capacity of only 10 kW.

Planning Staff have an issue of concern as it relates to the Renewable Energy Approvals (REA) process. In review the *Environmental Protection Act, R.S.O. 1990, Chapter E.19*, under Ontario Regulation 359/09 for REA's, it identifies this solar farm

proposal as a Class 3 Solar Facility, as the nameplate capacity of the solar facility is greater than 10 kilowatts. Section 8 of the O/Reg only exempts Class 1 and 2 Solar and Class 1 Wind Facilities from the REA process. Through confirmation with the Ministry of Environment (MoE), they agree that name plate capacity relates to the capacity of the solar array (the facility), not the inverter capacity.

Council should be aware that the proponent will have to contact the Renewable Energy Facilitation Office (REFO) under the Ontario Ministry of Energy and Infrastructure (MEI) as part of the REA process. This will require the proponent to consult as part of the one-window process established by the province. MEI would require the submission of numerous reports, such as a Construction Plan Report, Consultation Report, Decommissioning Plan Report, Design and Operations Report, Noise Study Report and Project Description Report.

With respect to OPA's FIT program, the microFIT rules (version 1.3 - released in December 2009) define nameplate capacity as follows:

***Nameplate Capacity** means the manufacturer's total installed rated capacity of the microFIT Project to generate electricity and, in the case of a solar photovoltaic facility, means the lesser of (i) the manufacturer's total installed rated capacity of the solar panels, and (ii) the manufacturer's specified maximum power output of the inverter.*

Therefore, the proponent would have to make application under the microFIT program with OPA since the inverter capacity is 10 kW, provided a positive decision is made with the NEC.

Planning Staff note that there is above-ground linear hydro transmission that runs on the eastern side of the 5<sup>th</sup> Line in the Concession 5/6 Road Allowance and comes into the subject lands on the southeast corner of the property towards the existing dwelling that commenced construction in 2005. The intent is to bury the hydro line to the existing hydro pole to the east of the existing dwelling, as illustrated in the site plan.

Based on the foregoing, Planning Staff would have no objections to this application for a Development Permit, conditional upon cultural heritage and karst topography comments being received from County of Grey Planning and Development Department, to the satisfaction of the NEC.

### **C. The Blue Mountains' Strategic Plan**

The recommendation in this Planning Staff Report PL.10.61 is consistent and supports the following Strategic Plans Goals:

*"1. Managing growth to ensure the ongoing health and prosperity of the community"*

#### **D. Environmental Impacts**

The proposal appears to be in keeping with the policies of the Province of Ontario as they relate to promotion of renewable energy projects.

#### **E. Budget Impact**

NIL

#### **F. Attached**

1. Lot Configuration
2. Site Plan

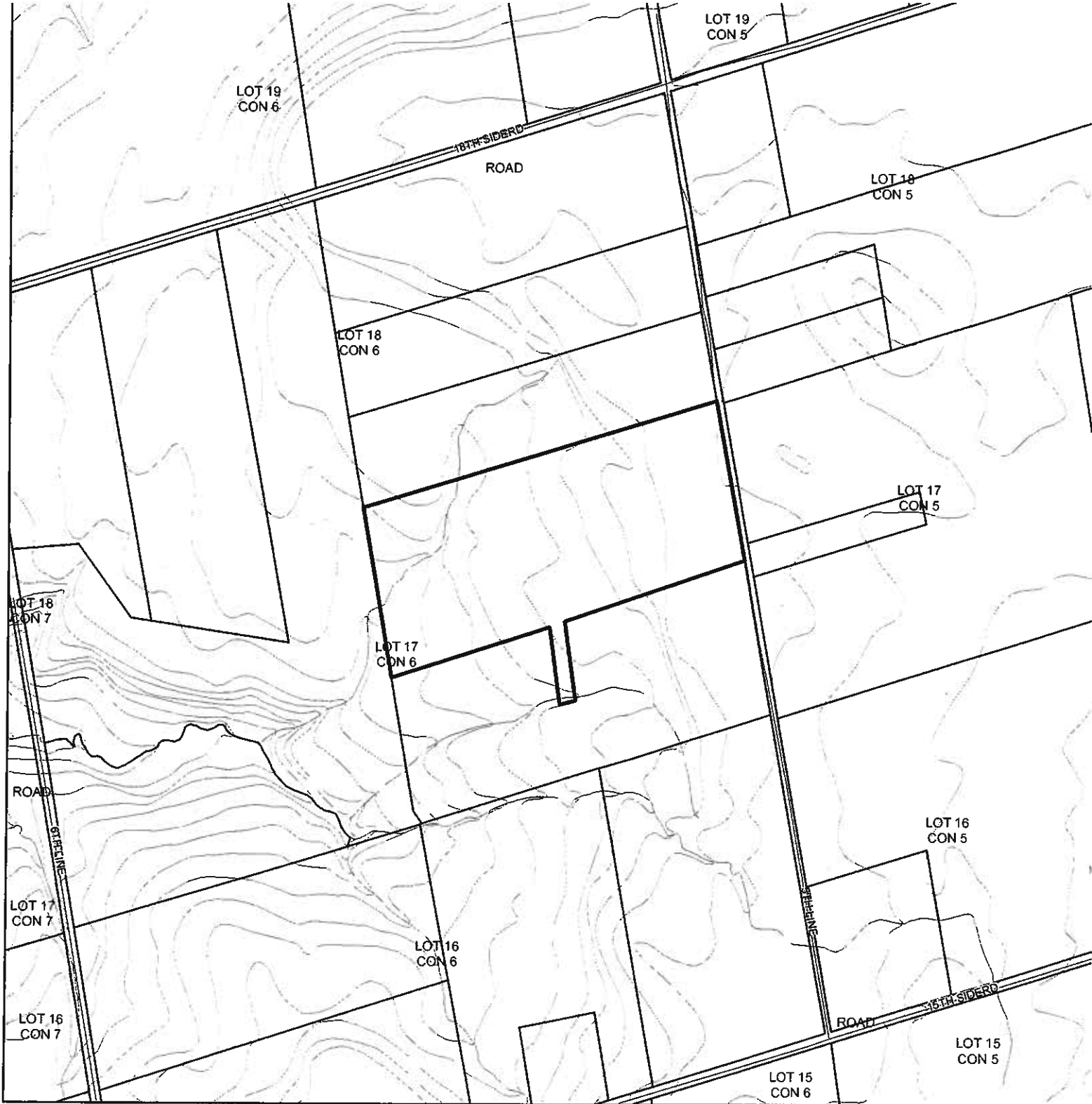
Respectfully submitted,

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**MAP 2  
LOT CONFIGURATION**

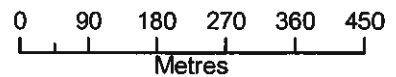
FILE NO: G/R/2010-2011/9046

APPLICANT: TOM MCCONNELL

**LEGEND**

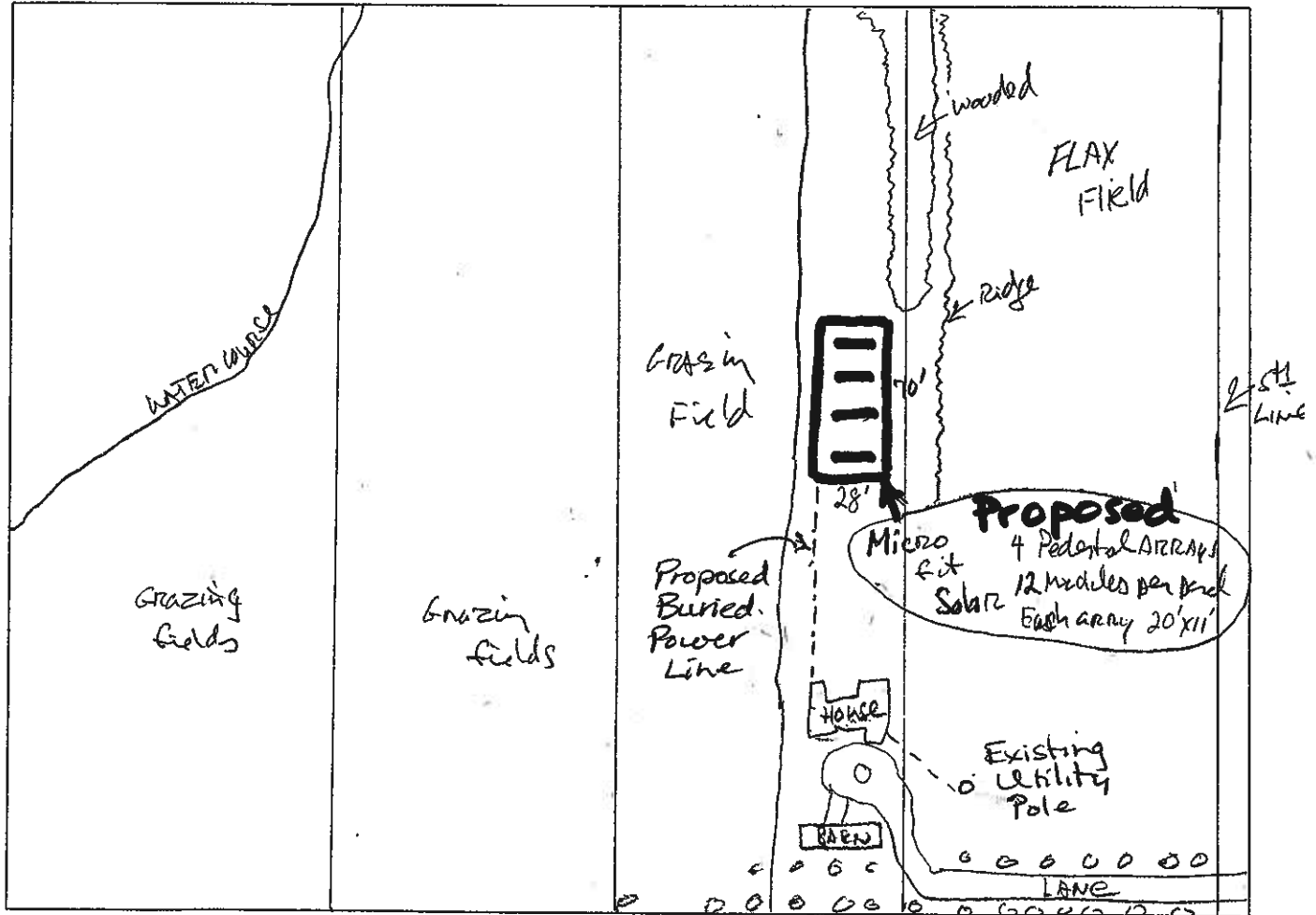
 Subject Property

*Approximate Scale 1:10000*



McConnell 576092 S<sup>th</sup> Line North ↑  
Blue Mts.

Not to scale



### Map 3

#### Site Plan

Name Tom McConnell

File Number G/R/2010-2011/9046



Not to Scale