

CORPORATION OF THE MUNICIPALITY OF AMHERSTBURG

BY-LAW NO. 2008-54

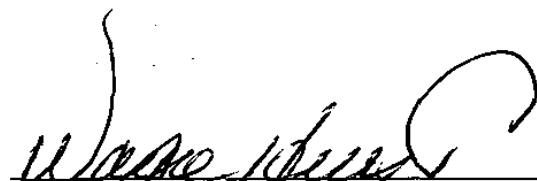
A BY-LAW TO ADOPT AMENDMENT No. 8 TO THE OFFICIAL PLAN FOR THE TOWN OF AMHERSTBURG

The Council of the Corporation of the Municipality of Amherstburg in accordance with the provisions of Sections 17 and 21 of the Planning Act, hereby enacts as follows:

- 1. Amendment No. 8 to the Official Plan for the Town of Amherstburg consisting of the attached text and map schedule is hereby adopted.
- 2. The By-Law shall come into force and take effect on the day of the final passing thereof.

READ A FIRST AND SECOND TIME THIS 18th DAY OF AUGUST, 2008.

READ A THIRD TIME AND FINALLY PASSED THIS 18th DAY OF AUGUST, 2008.



 Mayor, Wayne Hurst



 CAO/Clerk, Pamela Malott

I, _____, CAO/Clerk of the Corporation of the Municipality of Amherstburg, do hereby CERTIFY that the above is a TRUE COPY of By-Law No. 2008-54, as enacted and passed by the Council of the Corporation of the Municipality of Amherstburg on the _____ day of _____, _____.

 CAO/Clerk, Pamela Malott

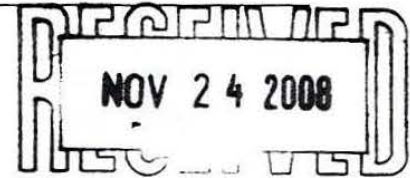


File No.: 37-OP-2008-006
Municipality: Town of Amherstburg
Subject Lands: Part of Lot 9, Concession 2, Part of Lots
31, 32, 33, 35, and 36, Concession 1, and
Part of Lots 1 and 2, Concession 3

Date of Decision: November 20, 2008
Date of Notice: November 20, 2008
Last Date of Appeal: December 10, 2008

NOTICE OF DECISION

With respect to an Official Plan Amendment
Subsection 17(35) and 21 of the Planning Act



A decision was made on the date noted above to approve with modifications Amendment No. 8 to the Official Plan for the Town of Amherstburg, as adopted by By-law 2008-54.

Purpose and Effect of the Official Plan Amendment

The purpose of Official Plan Amendment No. 8 is to amend Schedules "A" and "B-3" to correct the Wetland boundary and to adjust the Extractive Industrial designation; and to amend the Utilities section of the Official Plan to include site-specific policies on three sites to permit the development of Solar Energy systems. The modifications are technical in nature, provide consistency with the Provincial Policy Statement and were recommended by various provincial ministries. A copy of the decision is attached.

When and How to File An Appeal

Any appeal to the Ontario Municipal Board must be filed with the County of Essex no later than 20 days from the date of this notice as shown above as the last date of appeal.

The appeal should be sent to the attention of the Manager, Planning Services at the address shown below and it must,

- (1) Set out the specific part of the proposed Official Plan amendment to which the appeal applies,
- (2) set out the reason for the appeal (a helpful form is available from the OMB website at www.omb.gov.on.ca), and
- (3) be accompanied by the fee prescribed under the Ontario Municipal Board Act in the amount of \$125.00, payable by certified cheque or money order to the Minister of Finance, Province of Ontario.

Who Can File An Appeal

Only individuals, corporations or public bodies may appeal the decision of the County of Essex to the Ontario Municipal Board. An appeal may not be filed by an unincorporated association or group. However, an appeal may be filed in the name of an individual who is a member of the association or group.

When the Decision is Final

The decision of the County of Essex is final if a Notice of Appeal is not received on or before the last date of appeal noted above.

Getting Additional Information

Additional information about the amendment, including a complete version of the amendment, is available for public inspection during regular office hours at the County of Essex at the address noted below or from the Town of Amherstburg.

Mailing Address for Filing a Notice of Appeal:

County of Essex
360 Fairview Avenue West
Essex, ON N8M 1Y6

Submit notice of appeal to the attention of:

William King, Manager – Planning Services
Tel: (519) 776-6441, Ext. 329
Fax: (519) 776-125

DECISION

With respect to Official Plan Amendment #8 Subsection 17(34) of the Planning Act

I hereby approve Amendment #8 to the Official Plan for the Town of Amherstburg, adopted by By-law No. 2008-54, subject to the following modifications.

Modification #1

Section 2.2.13 (1) is modified by adding the following to the end of the sentence: "...and the Essex Region Biodiversity Conservation Strategy area of restoration 240 metres adjacent thereto."

Modification #2

Section 2.2.13 (5) is deleted in its entirety.

Modification #3

Section 2.2.13 (7) iii) b) and c) and d) are deleted and replaced with the following:

- b) the application conforms to the County Official Plan and this Plan.
- c) A Notice of Completion has been issued under the Environmental Screening Process (Environmental Screening Report and/or Environmental Review Report) and the minimum 30 day public and agency review period has been completed.
- d) Copies of all comments and any elevation requests received during the minimum 30 day public and agency review period have been provided to the Town and the County, and the Town and the County are satisfied that there are no fundamental planning issues that remain unaddressed.

Modification #4

Section 2.2.13 (12) is modified by (i) inserting the words "or Hazard Lands," between the words "Natural Environment Lands" and "an amendment", and (ii) deleting the words "Ontario Regulations 151/06, 169/06 and 172/06" and replacing them with "Ontario Regulation 158/06"

Modification #5

Section 2.2.13 (15) is deleted and replaced by the following:

"Preliminary consultation shall occur for new or expanded renewable energy systems between the applicant, Town, County and Conservation Authority prior to the submission of any Planning Act applications and the commencement of any environmental assessment process."

Modification #6

Section "2.2.13 (1) Solar Energy System/Renewable Energy Systems" is renumbered to 2.2.13.1.

Modification #7

Section 2.2.13 (1)(1), now Section 2.2.13.1 (1), is modified by deleting the second and third paragraphs and replacing them with the following:

"Small scale solar energy system shall mean any solar energy system that is mounted to an existing building or any ground installed facilities that occupy a maximum lot coverage of 10% up to a maximum of one hectare.

Large scale solar energy systems shall mean any solar energy system with ground installed facilities that occupy one hectare or more of land."

Modification #8

Section 2.2.13 (1)(5) vi), now Section 2.2.13.1 (5) vi), is deleted and replaced by the following:

" vi) **Reflectivity analysis** which demonstrates that sensitive land uses and public roads will not experience adverse effects and public safety is not compromised."

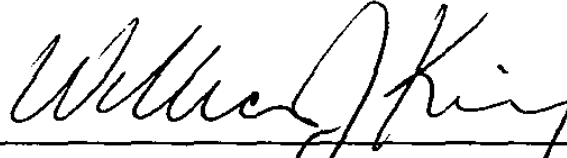
Modification #9

Section 2.2.13 (1)(5) viii) a), now Section 2.2.13.1 (5) viii) a), is modified by inserting the following after the words "disturbance areas":

"... and the site post-decommissioning and substantially the same areas and same average soil quality for agriculture."

As thus modified, this amendment is approved.

Dated at Essex this 20th day of NOVEMBER, 2008.



WILLIAM J. KING, AMCT, MCIP, RPP
Manager, Planning Services
County of Essex

AMENDMENT NO. 8
TO THE OFFICIAL PLAN
FOR THE
TOWN OF AMHERSTBURG

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APPROVAL PAGE

This Amendment to the Official Plan for the Town of Amherstburg which has been adopted by the Council of the Corporation of the Municipality of Amherstburg is hereby approved in accordance with Section 17 of the Planning Act, as AMENDMENT No. 8 to the Official Plan for the Town of Amherstburg.

Date

Approval Authority

CORPORATION OF THE MUNICIPALITY OF AMHERSTBURG

BY-LAW NO. 2008-54

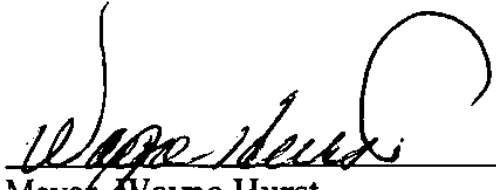
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Mayor, Wayne Hurst



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CAO/Clerk, Pamela Malott

TABLE OF CONTENTS

PART "A" - THE PREAMBLE	1
1. PURPOSE	1
2. LOCATION	2
3. BASIS	3
PART "B" THE AMENDMENT	13
1. DETAILS OF THE AMENDMENT	13
2. IMPLEMENTATION AND INTERPRETATION.....	20

AMENDMENT NO. 8

TO THE OFFICIAL PLAN

FOR THE TOWN OF AMHERSTBURG

PART "A" - PREAMBLE does not constitute part of this Amendment.

PART "B" - THE AMENDMENT consisting of the following text and map schedule, constitute Amendment No. 8 to the Official Plan for the Town of Amherstburg.

PART "A" - THE PREAMBLE

1. **PURPOSE**

The purpose of this Amendment is to incorporate wording into the Official Plan to deal with the development of alternative energy supply. The Official Plan currently deals with only Electric Power facilities and requires that all other utilities that are non-linear and that are not totally underground undertake justification studies in accordance with Section 5.7 of the Official Plan. The existing Official Plan has not dealt with the potential of alternative energy sources. While wind generating facilities were dealt with in the updated Official Plan adopted by Council September 11, 2006 that document has yet to be approved by the County of Essex. In addition, the County of Essex has recently developed policies on alternative energy supply and any proposed development of alternative energy supply in the Town of Amherstburg's will need to conform to both the County and local Official Plan policies. It was determined appropriate for this Amendment to look to the County of Essex new policies on alternative energy supply and apply the appropriate policies to lands affected by a recent application for solar energy systems.

An application has been received by the Town from a firm called Helios Solar Star A-1 to develop three separate parcels of land as solar energy systems. The property in question is owned by Mr. Loris Collavino (1710690 Ontario Inc., 1560803 Ontario Inc., and 1681351 Ontario Inc.).

The applicants are seeking site specific amendments to the Official Plan and the Zoning By-law to permit solar energy systems.

Of the three parcels of land one is currently designated Extractive Industrial, one is designated primarily Extractive Industrial with some Natural Environment and Wetland designations and the third is designated Heavy Industrial.

The 35 MV(megawatts) project will make use of the Ontario government's broadly adopted Renewable Energy Standard Offer Program (RESOP). It is anticipated that the development will occur over a three year time period with the electricity produced sold to the Ontario Power Authority (OPA) under a contract rate for twenty (20) years. The project will generate electricity equivalent to powering approximately 5,000 homes a year, or approximately 59% of the homes in Amherstburg.

The solar power-producing photovoltaic panels will face south and run in east west rows less than five metres high. The equipment will be setback of the property lines and buffers will be required of fencing and landscaping and earthen berms to mitigate any impact on abutting properties.

This Amendment also creates site specific policies to assist in guiding the physical development of the lands and to place certain constraints on the development.

2. LOCATION

The sites have been referred to by the applicants as Sites "A", "B", and "C".

Site 'A' is located at the southeast corner of the intersection at North Side Road and Concession 2 (refer to **Figure 2.1 – Subject Site 'A' in the applicants Justification Report**).

- Site 'A' is more specifically described as Part of Northwest 1/4 of Lot 9, Concession 2 in the former Township of Anderdon designated as Part 1 on Plan 12R-12958; Part of North 1/2 of Lot 10, Concession 2 in the former Townships of Anderdon designated as Part 4 on Plan 12R-12958 and Part 1 on Plan 12R-13638; and Part of Southwest 1/4 of Lot 10, Concession 2 in the former Township of Anderdon designated as Part 2 on Plan 12R-12958, Town of Amherstburg, County of Essex (refer to **Figure 3.1 – Site 'A' Legal Plan**).

Site 'B' is located at the northwest corner of the intersection at North Side Road and Concession 2 (refer to **Figure 2.2 – Subject Site 'B'**).

- Site 'B' is more specifically described as Part of Lots 31, 32, 33, 35 and 36, Concession 1 in the former Township of Anderdon, designated as Parts 4 and 5 on Plan 12R-5308, Town of Amherstburg, County of Essex (refer to **Figure 3.2 – Site 'B' Legal Plan**).

Site 'C' is located at the northeast corner of the intersection at Alma Street and Concession 3 (Fox Road) (refer to **Figure 2.3 – Subject Site 'C'**).

- Site 'C' is more specifically described as Part of Lots 1 and 2, Concession 3 in the former Township of Anderdon, designated as Parts 1 to 3 on Plan 12R-14374, Town of Amherstburg, County of Essex (refer to **Figure 3.3 – Site 'C' Legal Plan**).

In total, the three sites compromise approximately 555 acres (225 hectares).

On Site 'B' the applicant and the owner of the lands are presently working with the Ministry of Natural Resources (MNR), the Essex Region Conservation Authority (ERCA), and Ducks Unlimited Canada (DUC) to identify possible opportunities to restore and enhance impaired wetlands that can be found adjacent to the proposed subject site. The limits of the existing wetlands have been re-defined by the Ministry of Natural Resources and the Town has received mapping from the Ministry on the new Wetland limit line. Although the Extractive Industrial designation covers the entire site as the extractive land use was brine well extraction from below the surface, only those lands located beyond the new Wetland designation will be considered for use as a solar energy system. The brine extraction will also be prohibited within the area designated Wetland.

3. BASIS

Initial information on the sites and the proposed use as solar energy supply was received in March 2008 and the finalized application was received June 11, 2008. The completed Justification Report has been attached for the full basis of the proposed amendments. Additional reports were received just prior to the public meeting including a full environmental impact assessment and a report on sight lines relative to the Essex Terminal Railway. Response to the environmental issues have been received from the Essex Region Conservation Authority on desired mitigation techniques. The subject lands are also regulated by site plan control and ERCA's advice on mitigation and public concerns on berming and landscape issues will also be sought during site plan review process.

3.1 The Physical Characteristics of the Subject Site

The physical attributes of Site 'A' are as follows:

- A total site area of approximately 130 acres (52 hectares);
- An irregularly-shaped parcel with frontage on North Side Road and Concession 2;
- Formerly used by General Chemical for salt brine extraction with surface used for agricultural purposes;
- Zoned and designated Extractive Industrial; and
- Generally flat in topography.

The physical attributes of Site 'B' are as follows:

- A total site area of approximately 140 acres (57 hectares);
- An irregularly-shaped parcel with frontage on North Side Road and Concession 2;
- River Canard butts the western limit of Site 'B', where areas of environmental protection and significant wetlands exist;
- Essex Terminal Railway runs north-south through the site;

- Formerly used by General Chemical for salt brine extraction while surface of site used for agricultural purposes,
- Zoned and designated Extractive Industrial, Environmental Protection and Wetland; and
- Generally flat in topography.

The physical attributes of **Site 'C'** are as follows:

- A total site area of approximately 150 acres (61 hectares);
- A rectangular-shaped parcel with frontage on Concession 3;
- Currently used for agricultural purposes,
- Zoned and designated Heavy Industrial; and
- Generally flat in topography.

3.2 Surrounding Land Uses

The surrounding land uses at Sites 'A' and 'B' are depicted in *Figures 5.1 – Site 'A' Existing Land Use and 5.2 – Site 'B' Existing Land Use* and described in greater detail in the applicants Justification Report but are generally a combination of agricultural uses and low profile single detached rural residential dwellings. As noted above Site "B" abuts Provincially Significant Wetlands.

The surrounding land uses at Site 'C' are depicted in *Figure 5.3 – Site 'C' Existing Land Use* are agricultural land uses and low profile, single detached dwellings, a new church is located to the south of the site and the former General Chemical waste settling ponds are immediately to the west of the site.

3.3 Public Consultation Program

The applicants had pre consultation with both the public and agencies. Two resident meetings were held. Letters were sent to property owners within 240 metres of the sites.

The first resident meeting was held on January 9, 2008 and the other on February 13, 2008. The second meeting was open to the general public as well as area residents.

The purpose of this initial meeting was to introduce the Helios Solar Star A-1 Team to the neighbouring property owners and residents, discuss solar energy and the proposed solar energy systems, and address any questions the public may have had.

The first Residents' Meeting consisted of an informal walk-through session displaying the work completed to date, a formal presentation, and an open forum question and answer period. A copy of Residents' Meeting #1 display boards and the formal presentation are located in *Appendix C-*

Residents' Meeting #1. This first Residents' Meeting was attended by approximately fifty (50) people. Comment sheets were available and completed by nine (9) members of the public. The second Residents' Meeting was attended by approximately fifty (50) people. Comment sheets were available and completed by five (5) members of the public.

Based on the comments received during the open forum question and answer period and those submitted in writing, the following general observations were made:

- General questions pertaining to the applicants and their experience with other solar energy systems in Ontario and around the world;
- General questions pertaining to the type of equipment used, the number of solar panels to be used, quality of the solar panels, and the overall layout of each site;
- Questions as to why the proposed sites were selected, and why not elsewhere;
- Concerns with solar power safety;
- Questions regarding equipment setbacks, buffering of the three sites to adjacent land uses, fencing, and landscaping;
- Questions regarding aesthetics of the solar panels;
- Concerns for area wildlife habitat and migration patterns;
- Questions regarding noise levels and proposed noise attenuation measures;
- Concerns related to property values for properties directly adjacent to the three sites;
- The need for local community benefit – economic viability, electrical energy, community tax base, etc.;
- Concerns with insufficient operation and maintenance service and support through the term of the Ontario Power Authority contract; and finally
- Questions pertaining to the planning and approval process, the tentative project schedule, and further opportunities for public comment.

At the Second meeting the comments centered on:

- Discussions pertaining to equipment setbacks, fencing setbacks, buffering of the three sites to adjacent land uses, and proposed landscaping plans;
- Questions regarding the number of solar panels to be used on each site, and the overall layout of each site;
- Continued dialogue regarding the proposals' effect on property values for those properties directly adjacent to the three sites; and
- The need for local community benefit, specifically economic viability and improvements to the community tax base.

The Town of Amherstburg held a public meeting on this Official Plan Amendment on July 30, 2008. Comments received at the public meeting have been summarized and responses given are attached as an appendix to this document. Residents spoke both in opposition and in support of the amendment. Concerns included devaluation of property, loss of view, loss of agricultural land, concern over who would maintain the buffer area, and impact on natural heritage.

Residents who spoke in favour of the application supported the concept of alternative energy and in particular favoured solar energy over other alternative energy systems, job creation, and economic spin off.

Written comments were received from 11 people or agencies. A summary of the concerns or comments raised and the response given have been included as an appendix to this document.

3.4 Provincial Policy Statement

The PPS does support the development of alternative energy systems and the proposed development would be in conformity to the PPS. Specifically the PPS states:

Section 1.7, Long-Term Economic Prosperity states:

1.7.1 Long-term economic prosperity should be supported by:

h) providing opportunities for increased energy generation, supply and conservation, including alternative energy systems and renewable energy systems.

Section 1.8, Energy and Air Quality states:

1.8.1 Planning authorities shall support energy efficiency and improved air quality through land use and development patterns which:

e) Promote design and orientation which maximize the use of alternative or renewable energy, such as solar and wind energy, and the mitigating effects of vegetation.

1.8.2 Increased energy supply should be promoted by providing opportunities for energy generation facilities to accommodate current and projected needs, and the use of renewable energy systems and alternative energy systems, where feasible.

1.8.3 Alternative energy systems and renewable energy systems shall be permitted in settlement areas, rural areas and prime agricultural areas in accordance with provincial and federal requirements. In rural areas and prime agricultural areas, these systems should be designed and constructed to minimize impacts on agricultural operations.

Section 2.5.2.3 of the Provincial Policy Statement identifies policies specific to mineral and aggregate extraction, "The conservation of *mineral aggregate resources* should be promoted by making provision for the recovery of these resources, wherever feasible". The proposed uses for these lands have two major benefits:

- The first is the ability to use industrial lands for a low impact, alternative energy generating facility that maintains the ability to extract mineral resources from the

ground. In this case, the removal of a brine solution from the salt layer hundreds of metres below the surface.

- The second is the ability for the solar farm to act as an interim use for the land, while not hindering future extraction opportunities as the proposed use will not permanently change the way in which the lands can be used.

One area of concern Council should be aware of is that Site “C” is located within the Settlement boundary of the urban area of Amherstburg and is one of the few remaining serviceable industrial land sites within the municipality. There is some question as to whether or not the utilization of these lands for a solar energy system would be seen as a compact and efficient utilization of resources as required by the PPS which states in Section 1.1.3.2:

1.1.3.2 Land use patterns within settlement areas shall be based on:

a) densities and a mix of land uses which:

- 1. efficiently use land and resources;*
- 2. are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; and*
- 3. minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with policy 1.8.*

3.5 County of Essex Official Plan

The purpose of the County of Essex Official Plan is to establish a broad policy framework from which to realize the County’s long term planning strategy. The Plan recognizes and respects the planning powers and authorities of the local municipalities. It does not attempt to address in detail those planning matters which are currently being addressed by local municipalities. The purpose is to provide the fundamental policy framework from which more detailed land use planning can be continued by the local municipalities.

Section 4.4, Local Official Plans states:

It is not the intention of this Plan to prevent the development of areas with existing approved designations for development in local Official Plans, notwithstanding that they are not within a Settlement Area designation within this Plan (for example, the Amherstburg Industrial Park). It is the intent of the County, and a requirement of the Planning Act, that all future amendments and new planning documents conform to the County Official Plan.

The County has recently passed Official Plan Amendment No. 1 which has created policies to address alternative energy supply systems. The proposed amendment to the Amherstburg Official Plan has been modeled after the policies contained in the Essex OP Amendment No. 1.

Official Plan Amendment No. 1 to the County of Essex Official Plan as currently written would not permit solar energy systems in Management Area 1 which includes the Wetland portion of Site "B". Section 2.16.5.2.3 permits large scale solar energy developments within Natural Environment designations and within the 240 metres buffer associated with a Wetland designation.

The applicant has been closely working with the Ministry of Natural Resources (MNR), the Essex Region Conservation Authority (ERCA), and Ducks Unlimited Canada (DUC) to arrive to a common solution regarding the significant wetland designation that currently exists on Site 'B'. A Dillon biologist, along with representatives of MNR, ERCA, and DUC, visited Site 'B' for a Wetland Evaluation in early May 2008. The results of the Wetland Evaluation and the Environmental Impact Assessment have resulted in a revision to the boundary of the Wetland by the Ministry of Natural Resources and an agreement that the solar system as proposed will not negatively impact the Natural Environment areas or adjacent Wetlands.

The proposed development would be deemed to be in conformity to the County of Essex Official Plan.

3.6 Technical Considerations

The solar technology is based on standard electrical components, approved under Canadian safety codes. The following are answers, as provided by the applicant's consultants as taken from their Justification report, to some general technical considerations, including issues raised during the public consultation process.

3.6.1 Reflectivity Analysis

The solar panels do not have reflective qualities, since low-reflective coatings on the tempered glass are utilized, which absorbs as much light as possible for conversion into clean electricity. The proposed modules are monochromatic with a dull finish, which minimize the production of glare. Additionally, the photovoltaic (PV) panels proposed are designed to absorb and capture sunlight rather than reflect sunlight, and the industry incorporates design features such as textured glass that further reduce reflectivity. Refer to *Appendix Q* for the Reflectivity Analysis, which also includes both Federal Aviation Administration (FAA) and Nellis Air Force Base conclusions that the solar arrays installed at the Federal Express Hub in Oakland, California and at the Nellis Air Force Base in Nevada, respectively, did not produce any significant glare and would not affect aviation activities.

3.6.2 Noise Assessment

The predicted levels for the solar farm sites range from 23 - 36 dBA (A-weighted decibels) at the noise sensitive receivers adjacent to the proposed Sites A, B and C. Sound sources at these levels would be imperceptible to most people at the identified points of reception as the measured

background levels are well in excess of this level during the daytime period (52 – 67 dBA). The modeled levels are also significantly below the Ministry of Environment NPC 205 Class 2 daytime exclusion limit of 50 dBA and the lowest measured daytime Leq of 52 dBA. Therefore, according to the MOE guideline NPC 205, a stationary source below these levels would be approved to operate without any restrictions in a Class 2 area.

Based upon the modeled noise impact and analysis of background ambient sound levels, the proposed solar farm sites will not create an adverse noise impact on the surrounding land uses. The proposed site plans for Site A, B and C provide adequate separation between sources and receivers to ensure that sound levels generated by the operation of the tracker motors, inverters and transformers will not increase levels above the existing background ambient of the surrounding land uses. The use of earthen berms along properties adjacent to Sites A and B to create visual screen for the site also provide additional attenuation for sources on the site.

The Noise Impact Assessment report, and associated figures and appendices, can be found in *Appendix R* of the applicants Justification report.

3.6.3 Site Servicing

With respect to site servicing, road conditions, drainage, and storm water management, in general, the subject sites are considered to be adequate for the intended use. A Site Servicing Report can be found in *Appendix S* of the applicants Justification report. A comprehensive review of final site plan design will be required to ensure adequate function, drainage and storm water quality measures.

3.6.4 Operation Management Plan

Solar panels are extremely robust and have an expected design life of more than forty (40) years, and are supported by a 25-year performance warranty. The applicants are committed to finding responsible, investment partners who will work in collaboration with the Town of Amherstburg, its residents and the Provincial authorities who administer the 20-year Ontario Power Authority Renewable Energy Standard Offer Program. The applicants also have a vested interest in keeping the three sites well maintained and secure at all times to assure maximum possible clean energy production. A Management Plan summary can be found in *Appendix T* of the applicants Justification report, however a comprehensive Environmental & Construction Management Plan Report will be provided during the Site Plan Approval process, which will also include a detailed agreement pertaining to decommissioning of the sites.

3.6.5 Geotechnical Support

Based on the results of the Geotechnical Investigation, the subsurface soil conditions on Site 'A', Site 'B', and Site 'C' are appropriate to support the development of the proposed solar energy systems. Refer to *Appendix U* for the Geotechnical Investigation Support Statement prepared by

Golder Associates. A complete Geotechnical Investigation Report for the three subject sites is available upon request.

3.6.6 Property Values and Financial Impact Analysis

The proposed solar energy system uses are considered less intrusive in comparison to many other heavy or extractive industrial land uses. A qualified real estate appraiser has prepared an Appraisal Report to discuss the impacts, if any, to the surrounding properties. Refer to *Appendix V* for the Appraisal Report.

The Helios Solar Star A-1 Team has been in contact with the Municipal Property Assessment Corporation (MPAC) throughout the application process to obtain information pertaining to property assessments for solar energy systems in order assist the Town in understanding the financial tax base incentive the proposed uses would bring forward. Unfortunately at present time, MPAC is unable to provide an accurate property assessment for solar energy systems, such as the proposed solar energy systems. Other municipalities throughout the Province of Ontario are also under similar predicaments, and are awaiting further details from MPAC regarding assessments of other solar energy system proposals as well. Refer to *Appendix V* for a letter from MPAC confirming their review of solar energy system property assessments, which is currently underway.

3.6.7 Site 'B' Wetland Evaluation

The land owner has been closely working with the Ministry of Natural Resources (MNR), the Essex Region Conservation Authority (ERCA), and Ducks Unlimited Canada (DUC) to arrive to a common solution regarding the Provincially Significant Wetland designation that currently exists on Site 'B'. A Dillon biologist, along with representatives of MNR, ERCA, and DUC, visited Site 'B' for a Wetland Evaluation on May 8, 2008. As a result of the on-site meeting, MNR revised the Provincially Significant Wetland mapping to reflect the changes to the wetland boundary on Site 'B'. A letter confirming this change was forwarded to the Town of Amherstburg. A Scoped Environmental Impact Assessment for Site 'B', as prepared by a Dillon biologist, can be found in *Appendix X* of the full Justification report.

Since the filing of the Justification report by the applicants a full Environmental Impact Study has been undertaken and reviewed by the Essex Region Conservation Authority. Correspondence and consultation with ERCA has indicated that there is a need for a 24 metre setback from the Wetland boundary before any berming and/or fencing is established. They have also expressed concern over any continued or future brine extraction from the area identified as Wetland and the associated setback. ERCA will be asked to participate in any site plan control discussions and detailed agreements associated with the parcel of land abutting the Wetland designation.

3.6.8 Wildlife Concerns

As discussed in Section 3.0 of the applicants report, concerns were raised during the Public Consultation Programs pertaining to loss of wildlife habitat, particularly that of the Essex County deer population. Deer are widely found and hunted in many parts of North America, including Essex County. According to the International Union for the Conservation of Nature and Natural Resources (IUCN), deer are not considered an endangered or threatened species.

Since fencing will be installed along the perimeters of the proposed developments, the deer population in the Town of Amherstburg will no longer be able to access the subject sites. By prohibiting wildlife, including deer, from entering the subject sites, the applicant is encouraging the safety of the species. Other wildlife forms, such as birds, rabbits, squirrels, etc, that may find access into the subject sites will not be affected.

3.6.9 Sight Lines

Concerns were raised during the Residents' Meetings pertaining to the visual sight lines from the surrounding residential properties.

The non-ground-penetrating SunPower Trackers are less than five metres in height, will be reasonably set back from property lines at approximately 10 metres (33 feet), and appropriately buffered from adjacent land uses using fencing, landscaping, and earthen berms (refer to *Figure 4.4 – Conceptual Site Plan Cross Sections*). The proposed setbacks from the residential dwellings to the property lines of the solar farms range from:

- 77 metres (253 feet) on 2nd Concession to 36 metres (118 feet) on North Sideroad at Site 'A';
- 60 metres (197 feet) on 2nd Concession to 138 metres (450 feet) on Sari Lane at Site 'B'; and
- 412 metres (1,352 feet) to 448 metres (1,470 feet) on 4th Concession at Site 'C'.

These separations are measured from the residential dwellings to the nearest property line of the respective site. The solar panel tracking equipment is further setback from the property lines, which results in an even greater separation distance between the equipment and the nearest dwelling. The Tracker units will, essentially, have little to no impact on the sight line views from adjacent residential properties.

Comments were also received from the Essex Terminal Railway (ETR) with respect to sight lines at Site 'B'. The applicant has been closely working with representatives of the ETR to ensure the proposed development at Site 'B' will not directly impact the visual sight lines for the railway operations. A sight-line survey was performed on-site at the ETR in April 2008, and a transportation engineer is currently reviewing the measurements to ensure compliance with the ETR standards. A Transportation Engineering Report will be forwarded to the Town upon completion.

Since the preparation of the Justification Report by the applicants additional study and correspondence has been received relative to sight lines adjacent to the Essex Terminal Railway. Added sightline setbacks are required and have been added to the implementing zoning by-law amendment for the site adjacent to the railway.

At the public meeting held by the Town assurances were given to the residents that abutting the proposed development that they would be consulted during the site plan control process to address issues such as who would maintain any buffer or berm, height of berm and landscaping features associated with any buffer or berm.

3.7 Official Plan Policies

The Official Plan currently designates Site "A" Extractive Industrial. Special Policies are needed to add to the permitted uses a Solar Energy System subject to site specific zoning and Site Plan Control.

Site "B" is currently designated Extractive Industrial, Wetland and Natural Environment. As a result of consultation with the Ministry of Natural Resources the Wetland boundary has been revised and the Schedule A Land Use Plan needs to reflect the Ministry's revision. In addition Special Policies need to be added to allow for the development of a Solar Energy System.

Site "C" is designated Heavy Industrial and special policies are needed to add to the permitted uses a Solar Energy System subject to site specific zoning and Site Plan Control.

3.8 Consultants Reports

Also forming part of this Official Plan Amendment are the reports prepared by the Applicant's consultants. They form an appendix to this document.

PART “B” - THE AMENDMENT

All of this part of the document, entitled, “Part ‘B’ - The Amendment” consisting of the following text and map schedule constitutes Amendment No. 8 to the Official Plan for the Town of Amherstburg.

1. DETAILS OF THE AMENDMENT

The Official Plan of the Town of Amherstburg is amended as follows:

- 1.1 “Schedule “A” and Schedule “B-3” to the Town of Amherstburg Official Plan is hereby amended to correct the Wetland boundary and to adjust the Extractive Industrial designation and the Natural Environment designation to reflect the changes made by the Ministry of Natural Resources to the lands so indicated on the attached map.
- 1.2 Section “2.2.13 Other Utility Facilities” of the Town of Amherstburg Official Plan is hereby amended by deleting the heading and changing it to “2.2.13 Utilities” and adding the following additional site specific policies so the section reads as follows:

“2.2.13 Utilities

The following policies 2.2.13 and policies 2.2.13.1 apply to three specific sites identified as:

Site ‘A’ is located at the southeast corner of the intersection at North Side Road and Concession 2. Site ‘A’ is more specifically described as Part of Northwest 1/4 of Lot 9, Concession 2 in the former Township of Anderdon designated as Part 1 on Plan 12R-12958; Part of North 1/2 of Lot 10, Concession 2 in the former Townships of Anderdon designated as Part 4 on Plan 12R-12958 and Part 1 on Plan 12R-13638; and Part of Southwest 1/4 of Lot 10, Concession 2 in the former Township of Anderdon designated as Part 2 on Plan 12R-12958, Town of Amherstburg, County of Essex.

Site ‘B’ is located at the northwest corner of the intersection at North Side Road and Concession 2. Site ‘B’ is more specifically described as Part of Lots 31, 32, 33, 35 and 36, Concession 1 in the former Township of Anderdon, designated as Parts 4 and 5 on Plan 12R-5308, Town of Amherstburg, County of Essex.

Site ‘C’ is located at the northeast corner of the intersection at Alma Street and

Concession 3 (Fox Road), Site 'C' is more specifically described as Part of Lots 1 and 2, Concession 3 in the former Township of Anderdon, designated as Parts 1 to 3 on Plan 12R-14374, Town of Amherstburg, County of Essex .

- (1) No Energy Systems shall be permitted on lands designated Wetland.
- (2) The development of new or expanded renewable energy systems shall be subject to the permit requirements of the Ontario Ministry of Transportation (MTO) if applicable.
- (3) Sites proposed for new or expanded renewable energy systems on lands regulated by Ontario Regulation 158/06 for the Essex Region Conservation Authority, as amended, will be subject to the provisions, policies and regulations there under.
- (4) The development of renewable energy systems shall be prohibited where they may cause a potential aviation safety hazard. The development of new or expanded renewable energy facilities within the Areas of Influence of airports and aerodromes, shall be sited to the satisfaction of Transport Canada and Navigation Canada if applicable and shall require consultation with airport and aerodrome operators. An Aeronautical Obstruction Clearance form must be approved by Transport Canada and a Land Use Proposal Submission form must be approved by NavCanada if applicable.
- (5) Renewable energy systems may be permitted through the use of conditional zoning in accordance with Section 34(16) the Planning Act and implementing regulations where it can be demonstrated that the proposed land use will not result in any adverse effects and the conditions could be fulfilled. Conditional zoning may also require an agreement for such matters as decommissioning and operational maintenance, and emergency service protocols.

Notwithstanding the above, conditional zoning can only be used for renewable energy projects and cannot be used until the associated Planning Act Regulations have come into force and effect. Conditional zoning shall only be used in accordance with Provincial regulations notwithstanding any other provision in this Plan. This policy should not be interpreted as requiring the use of conditional zoning prior to the approval of applications for renewable energy systems. The intent of this policy is to provide the opportunity to utilize conditional zoning when the implementing regulation has been brought into effect by the Province.

- (6) Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- (7) The intent of this Plan is not to duplicate any requirements of a proponent under

the Environmental Assessment Act if applicable. Wherever possible, these policies seek to integrate the Ontario Environmental Assessment Act(s) and Planning Act through:

- i) The scope of any documentation required under the Environmental Assessment Act(S) will be expanded to include any information requirements required to assess the proposal under the Planning Act and the Provincial Policy Statement.
 - ii) It is expected that the proponent will coordinate its activities regarding timing of notices, public information sessions, release of reports and assessment of reports.
 - iii) A Zoning By-law Amendment or site plan control agreement will not be approved until the following has been met:
 - a) The application is consistent with the Provincial Policy Statement;
 - b) the application conforms to the County and this Plan;
 - c) if applicable a Notice of Completion has been issued under the Environmental Assessment process and the 30 day comment period has been completed.
 - d) copies of all comments and any elevation requests received during the 30 day comment period have been provided to the County and to the Town and all are satisfied there are no fundamental planning issues that remain unaddressed.
 - e) once the above tests have been met, a holding provision shall be added to any zoning and shall be removed once all final applicable Federal and Provincial approvals have been obtained.
- (8) The development of renewable energy systems in areas adjacent to or on known deposits of mineral, aggregate, or petroleum resources shall be permitted where it has been demonstrated that the energy system serves a greater long-term public interest during the lifetime of the renewable energy system than the resources noted above and does not compromise the future extraction of the aggregate, mineral or petroleum resource.
- (9) The Town shall generally require a peer review of any supporting information at the applicant's cost. Exemption to all or part of the peer review requirement may be considered during pre-consultation based on the nature and scale of the proposal and the extent of any concurrent reviews of the supporting information.

All required supporting reports and studies and their peer review are to be prepared and signed by qualified individuals.

- (10) Renewable energy systems shall be designed and constructed to be buffered and/or separated from sensitive land uses to prevent adverse effects such as but not limited to noise, odour and other contaminants and to minimize the risk to public health and safety.
- (11) Applications to construct more than one renewable energy system per property shall be considered with regard to any cumulative impacts (for both existing and proposed facilities) that may result to adjacent landowners, the general area, the municipality, or the County.
- (12) Prior to the development of new or expanded renewable energy systems in Wetlands or Natural Environment Lands an amendment to the Official Plan and Zoning By-law will be required which conforms with the Natural Hazards policies in the Provincial Policy Statement 2005 and the requirements for permits by the respective Conservation Authority under Ontario Regulations 151/06, 169/06 and 172/06.
- (13) Prior to the approval of a medium or large, new or expanded, renewable energy system, the proponent must demonstrate that the lands affected by the project do not exhibit characteristics suitable for, and are not used for, specialty crop areas.
- (14) Prior to the approval of a new renewable energy system, the proponent shall ensure that where there is a vacant lot of record in the vicinity of the project upon which a point of reception could be built in accordance with the local zoning for the property, the proponent must model and demonstrate that the receptor could be built on the property without being subjected to adverse effects. This shall be accomplished by demonstrating that a suitable building envelope exists on a portion of the property that would reasonably be expected to contain the use.
- (15) Preliminary consultation between the applicant and municipal staff regarding new or expanded renewable energy systems is required prior to the submission of any application and the commencement of any applicable Environmental Assessment Processes.
- (16) Notification and circulation for large scale projects may be expanded beyond the minimum requirements in the Planning Act. Depending on the scale of the project the Town may require the posting of notices on each property that is subject to the applications as well as posting the notice in area newspapers.
- (17) Prior to adoption of a Zoning By-law Amendment, the by-law text and schedule

will include UTM coordinates identifying the location (within a 50 metres radius) of proposed renewable energy systems.

- (18) Where an application contains more than one property, a single official plan amendment and/or zoning by-law amendment application will be processed for the renewable energy system proposal.
- (19) All new or expanded renewable energy systems shall be subject to site plan control approval.

The requirement to prepare a site plan by a qualified professional illustrating the location of the proposed renewable energy system(s) (including make, model and power output), the location of all buildings, structures, works, access roads, supporting infrastructure, and property lines, as well as municipal roads, trails, vegetation, elevations, adjacent buildings and structures to a distance of 100 metres for every 10 metres of renewable energy system height from the property proposed for the renewable energy system. The level of detail may be simplified as determined through a pre-consultation meeting with the Town depending upon the nature and scale of the proposal.

2.2.13(1) Solar Energy Systems/Renewable Energy Systems

- (1) For the purposes of this Official Plan **Solar Energy System:** Means a renewable electrical generation facility that produces power from the sun using photovoltaic technology to provide all, or a portion of, the electrical power needs for a user or to feed into the transmission or local distribution grid. A solar energy system includes all arrays, supporting infrastructure, and outbuildings.

Small scale solar energy systems shall mean any solar energy system that is mounted to an existing building or any ground installed facilities that occupy up to a maximum lot coverage of 10% and on sites less than 1 hectare.

Large scale solar energy systems shall mean any solar energy system with ground installation facilities that occupy more than 10% lot coverage and or occupy more than 1 hectare of land.

- (2) The development of Solar Energy Systems in suitable locations in the Town of Amherstburg is a sound planning objective. Solar Energy Systems will be regulated by this Plan including the policies noted above under Section 2.2.13, the Zoning By-law, Site Plan Control and by the requirements of the Ministry of the Environment.

- (3) Ground mounted small and/or large scale solar energy systems are not permitted on lands which are designated Wetlands or for large scale solar energy systems contained within a Settlement Area except lands within the Settlement Area that are in an Industrial designation.
- (4) Subject to the Policies of this Plan the determination of the appropriate land use provisions for small scale solar energy systems in terms of height, location, lot coverage, setbacks and any other land use planning matter shall be implemented through the comprehensive zoning by-law. Large scale solar energy systems will be subject to site plan control in addition to appropriate zoning regulations.
- (5) For all large scale solar energy the following technical reports will be required system proposals, after preliminary consultation and scoping with the County, Town and the Conservation Authority:
 - i) **Scoped Environmental Impact Assessment** that addresses the following:
 - a) Natural heritage requirements of the Provincial Policy Statement.
 - b) Address Natural Environment Areas of this Plan.
 - ii) **Aggregate Assessment** if located in an area of high aggregate potential the applicant must demonstrate that the solar energy system serves a greater long-term public interest during the lifetime of the system than the aggregate resources and does not compromise future extraction of the aggregate resource.
 - iii) **Growth Management Assessment** is required for all large scale solar energy systems. This assessment will demonstrate:
 - a) That sufficient land is available through intensification and redevelopment and designated growth areas to accommodate an appropriate range and mix of employment opportunities, housing and other land uses to meet projected needs for up to 20 years.
 - b) That the location of the solar energy system will not negatively impact on:
 - 1) The orderly progression of development and the timely provision of the infrastructure and public service facilities required to meet current and projected needs.
 - 2) Settlement orientation and layout to ensure efficiency and convenient access to retail facilities, schools, recreational facilities and services.
 - iv) **Noise Report** demonstrating compliance with Ministry of the Environment requirements concerning any required transformers and

other mechanical noises. This report shall demonstrate compliance with applicable Ministry requirements regardless of exemptions that may be afforded for particular land uses.

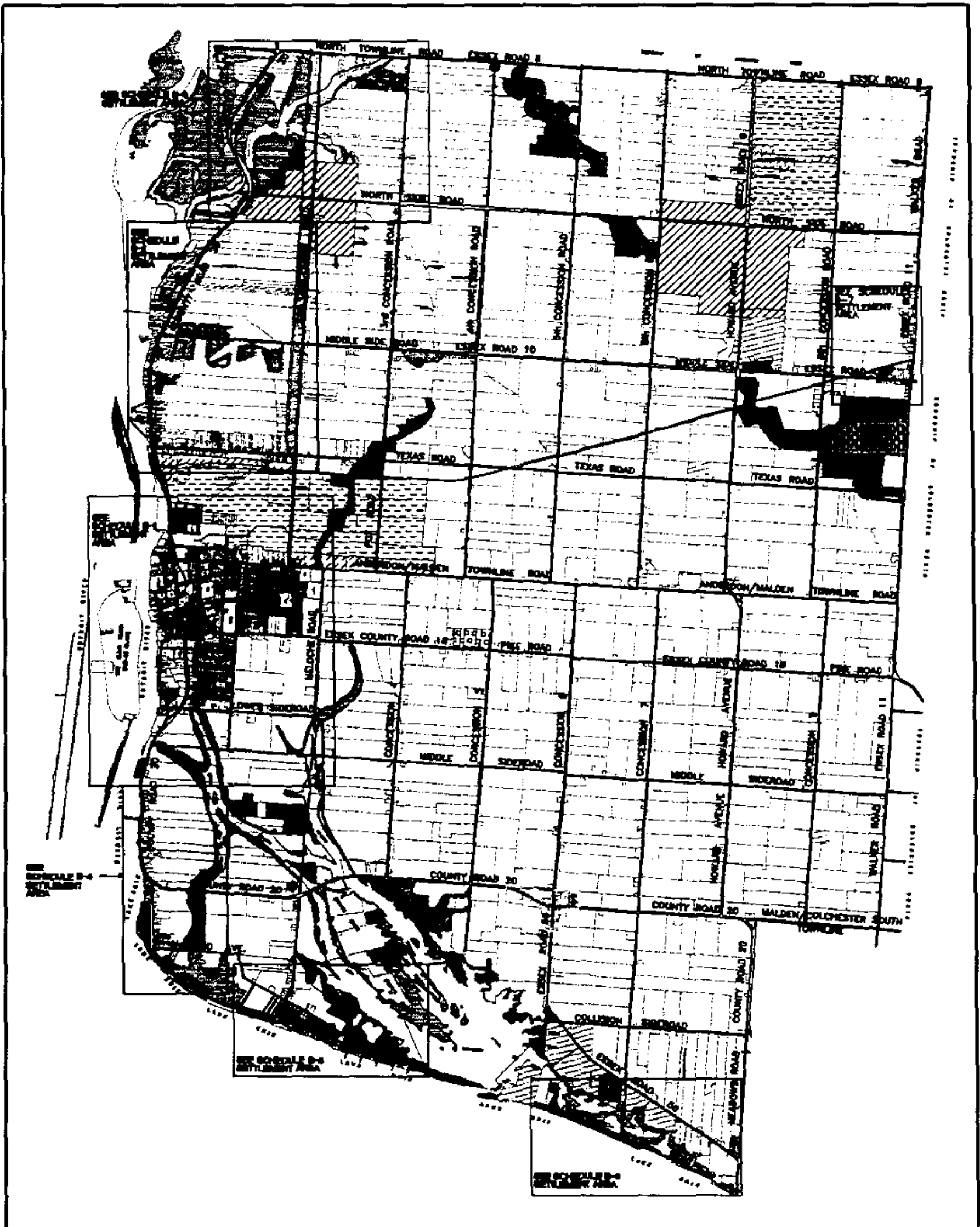
- v) **Agricultural Impact Study:** If proposed in designated Agricultural Areas, a report must assess the following:
- a) The quality of the agricultural land proposed for the use and whether lower quality lands are available on or off-site. In addition, this study will assess the impacts on any existing agricultural operations.
 - b) Agricultural land, infrastructure (i.e. artificial filed tiles, drainage ditches, culverts, field entrances, fences etc) operations and activities shall be avoided to the greatest extent possible.
 - c) If unavoidable, the amount of agricultural land to be used shall be minimized to the greatest extent possible and disruption to the above-mentioned agricultural functions and features shall be minimized to the greatest extent possible and appropriately repaired and restored.
 - d) That in prime agricultural areas:
 - 1) The lands do not comprise specialty crop areas.
 - 2) There are no reasonable alternatives which avoid prime agricultural areas.
 - 3) There are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.
 - 4) Any work on prime agricultural lands that is in addition to the land directly needed for the renewable energy system, shall be conducted according to appropriate construction standards such that substantially the same areas and same average soil quality for agriculture are restored after such work is completed.
- vi) **Reflectivity Analysis** which demonstrates that sensitive land uses will not experience adverse effects and public safety is not compromised (i.e. public roads).
- vii) **Stormwater Management Report** assessing quality and quantity runoff during and post construction.
- viii) **Management Plan and Site Plan Control Agreements** including but not limited to:

- a) Procedures for rehabilitation/reinstatement of temporary disturbance areas.
- b) Construction details concerning staging, access, silt control, construction areas, hours of construction, and any temporary structures.
- c) Traffic management which details volumes, frequencies and haul routes of construction and supply vehicles. Haul routes should minimize impacts on existing services/infrastructure and local residents.
- d) Decommissioning details where the proposed energy system has a set lifespan and which should include the method of removal, reinstatement of the lands to their prior use, and the estimation of the costs of decommissioning and how this would be funded entirely by the developer, including the determination of securities.
- e) Landscaping plans.
- f) Stormwater management plans.
- g) Emergency management which includes details concerning on-site safety and measures to ensure emergency services personnel are adequately trained.
- h) Preventative maintenance and maintenance plans.

2.2.13.2 Other Utilities Facilities
















2. IMPLEMENTATION AND INTERPRETATION

The implementation and interpretation of the Amendment shall be in accordance with the respective policies of the Official Plan of the Town of Amherstburg.



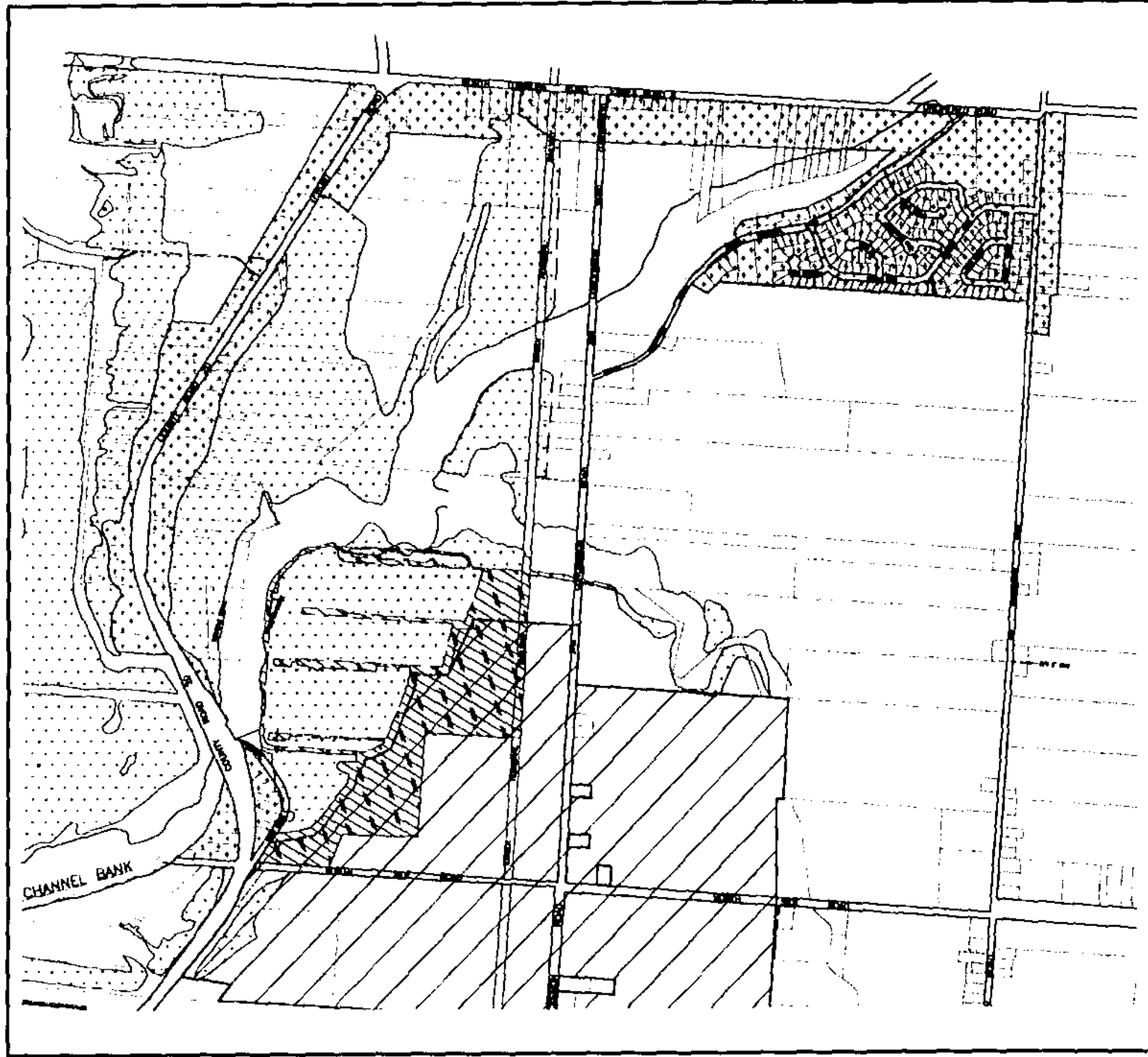
SCHEDULE 'A'
TOWN OF AMHERSTBURG
OFFICIAL PLAN
LAND USE PLAN

LEGEND

- | | |
|---|--|
|  SETTLEMENT AREA |  INSTITUTIONAL |
|  AGRICULTURAL |  RECREATIONAL DEVELOPMENT |
|  LOW DENSITY RESIDENTIAL |  NATURAL ENVIRONMENT |
|  HAMLET RESIDENTIAL |  WETLAND |
|  MOBILE HOME RESIDENTIAL |  SEWAGE LAGOON |
|  LIGHT INDUSTRIAL |  FORMER WASTE DISPOSAL SITE |
|  HEAVY INDUSTRIAL | |
|  EXTRACTIVE INDUSTRIAL | |
|  SPECIAL POLICY INDUSTRIAL | |



SCALE 1: 60 000



SCHEDULE 'B-3'
SETTLEMENT AREA
TOWN OF AMHERSTBURG
OFFICIAL PLAN
LAND USE PLAN

LEGEND

- AGRICULTURAL
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- HIGH DENSITY RESIDENTIAL
- OFFICE RESIDENTIAL
- HISTORICAL RESIDENTIAL
- MOBILE HOME RESIDENTIAL
- LAKESHORE RESIDENTIAL
- HAMLET RESIDENTIAL
- HIGHWAY COMMERCIAL
- SHOPPING CENTRE COMMERCIAL
- GENERAL COMMERCIAL
- NEIGHBOURHOOD COMMERCIAL
- LIGHT INDUSTRIAL
- HEAVY INDUSTRIAL
- EXTRACTIVE INDUSTRIAL
- INSTITUTIONAL
- NATURAL ENVIRONMENT
- WETLAND
- RECREATIONAL DEVELOPMENT
- SEWAGE LAGOON

SCALE 1:12 000

