



RON DAVIDSON  
LAND USE PLANNING CONSULTANT INC.

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September 22, 2023

Municipality of Kincardine  
1475 Concession 5  
RR 5  
Kincardine, ON  
N2Z 2X6

Attention: Dwayne McNab  
Development Services Manager / Chief Building Official

Dear Sir:

**Re: Zoning Compliance Letter of Opinion  
Lot 30, Concession 5, Geographic Township of Bruce  
Municipality of Kincardine  
457 Sideroad 30  
Vestas / Enbridge**

Further to our recent discussion regarding the zoning of the above-noted property as it relates to the current and proposed use of the site, I wish to offer the following planning opinion:

**PURPOSE OF THIS LETTER:**

The purpose of this letter is to demonstrate conformity of a proposed land use with the current zoning of the subject property.

**BACKGROUND:**

**i. Site Location**

The subject property is located at the northwest corner of the Bruce Road 20 / Sideroad 30 intersection, in the former Township of Bruce, Municipality of Kincardine.

## ii. Features of the Site

This land holding comprises 40.22 hectares, of which approximately 35 hectares are cash-cropped.

Situated in the southeast quadrant of the site is a building having approximately 3850 square metres of floor area. A large parking area is provided adjacent to the building and is accessed from two driveways along Bruce Road 20 and Sideroad 30. A small pond also exists on the site to the south of the building. A forest covers approximately 2.5 hectares of land in the northwest corner.

## iii. Adjacent Land Uses

The predominant land use within close proximity of the subject property appears to be agriculture; however, two properties located immediately south of the site are zoned for agriculturally related commercial and industrial purposes. Large, forested tracts of land also exist in the area.

## CURRENT ZONING:

The southeast corner of the property, comprising 11.2 hectares and containing the existing building, parking, pond, and some cropped land, is zoned 'ACI-s-h' (Agricultural Commercial / Industrial).

The balance of the site is zoned mostly 'A1' (General Agriculture), with a small 'EP' (Environmental Protection) zoned area in the northeast corner.

The 'ACI-s-h' zone is a site-specific zone that was applied to the property over thirty years ago and permits the following:

'ACI-s-h' Exception to Zone Provisions:

(i) *The permitted non-residential uses shall be limited to:*

- a. *'Bulk Sales Establishment – Agricultural';*
- b. *'Farm Implement Establishment';*
- c. *'Feed Mill & Elevator';*
- d. *'Food Processing – Primary';*

- e. *'Industry – Non-Effluent Producing limited to packaging (i.e. bagging, boxing, crating, shrink wrapping, etc.) woodworking, ornamenting and assembly';*
  - f. *'Nursery';*
  - g. *'Warehouse excluding a 'Transport Depot';*
- (ii) *The lands shall be subject to Site Plan Control;*
- (iii) *The 'H' provision may be removed once the following conditions have been met:*
- a. *A statement from a certified engineer stating that all floor drains which may become contaminated with oils, solvents or other similar liquid/materials are not directly connected to a new/existing domestic waste treatment system on the property is provided; and*
  - b. *A statement from a certified engineer stating that all floor drains which may become contaminated with oils, solvents or other similar liquid/materials have been connected to a total retention/separator tank or similar engineered system is provided; and*
  - c. *A statement from a certified engineer stating that a total retention/separator tank or a similar engineered system which separates oils, fuels, lubricants, cleaners & solvents etc. and stores all separated contaminants has been installed and is functioning according to its design specifications is provided; and*
  - d. *A current contract with a MOE certified carrier engaged for the disposal of materials from the total retention/separator tank or a similar engineered system is provided; and*
  - e. *A Site Plan Control Agreement has been registered on title; and*
  - f. *A 'Spill Contingency Plan' shall be prepared outlining the ways and means by which spills are to be prevented, managed and remediated.*

#### **EXISTING AND PROPOSED USE:**

This letter applies specifically to the portion of the property that is zoned 'ACI-s-h.

For the last 15 years, the existing building has been mostly occupied by Vestas Canadian Wind Technology (Vestas), a company which services and maintains the 115 V82 wind turbines that have been erected in close proximity to Lake Huron within the Municipality of Kincardine by Enbridge Renewable Energy Infrastructure LP (Enbridge).

This contact between the two companies is valid until the end of the Purchase Power Agreement in 2034. Vestas is responsible for the turbines; however, Enbridge is responsible for the maintenance of the 115 pad mount transformers, overhead poles lines, underground cables, substation, roads, and crane pads.

Overall, Enbridge is responsible for the safe and reliable delivery of energy from the windfarms.

Within the building, Vestas stores wind turbine components for the V82, which are utilized on the nearby turbines. Enbridge also occupies warehouse space to store their wireless communication equipment and navigational lights.

Enbridge is now proposing to renovate a small portion of the existing building (approximately 335 square metres) into office space. Enbridge feels that it is critical for both companies to be working within the same building in order to best respond to emergencies, services, turbine faults, and substation faults in a safe and reliable manner.

## **ZONING CONFORMITY:**

The proposed renovation requires a Building Permit from the Municipality of Kincardine. In order to issue the permit, the Municipality needs to be satisfied that the intended use conforms to the Comprehensive Zoning By-law.

Conformity with the Bruce County Official Plan is not relevant since Building Permits are evaluated against applicable law (e.g. Ontario Building Code, Comprehensive Zoning By-law, Site Plan Agreement where applicable, Conservation Authority permit where applicable, etc.), and an Official Plan is not applicable law.

Therefore, the question is: Does the intended use conform to the Zoning By-law?

This discussion should begin with reviewing the existing use of the property, which, as noted above, involves the storage of wind turbine components, wireless communication

equipment, and navigational lights by Vestas and Enbridge. It is evident that this storage use qualifies as “warehousing”, which is a permitted use under the current ‘ACI-s-h’ zoning of the site and is defined in the Municipality of Kincardine Zoning By-law as:

*‘WAREHOUSE’ shall mean lands, buildings or part of a building used or intended to be used for the bulk storage and distribution of goods, merchandise or materials and may include a ‘Transport Depot’.*

Enbridge now wishes to convert approximately 335 square metres of floor area within the existing building to office space for Enbridge employees that are involved in the servicing of the wind turbine operations described above. It is evident that this office space qualifies as an “accessory” use, which is defined as:

*‘ACCESSORY’ shall mean a use, building or structure that is normally incidental, subordinate and exclusively devoted to and located on the same lot as the main use, building or structure but does not include a building or structure used for human habitation.*

The office component of the operation would occupy less than 9% of the overall floor area of the building and would be exclusively devoted to the main use of the building. In this circumstance, the office should be treated as an accessory use.

Based on the foregoing, it is my professional opinion that an amendment to the Municipality of Kincardine Zoning By-law is not required to allow for the minor, interior conservation of floor space for office purposes.

It should also be noted that the proposed renovation does not necessitate an amendment to the Site Plan Agreement.

On a final note, I am aware that a holding symbol applies to the current zoning of the site; however, I do not understand why. Presumably, the holding symbol should have been removed years ago before the building was constructed and used as a door manufacturing plant. In any event, I do not believe that the existence of the holding symbol is relevant to the minor issue at hand.

**CONCLUDING REMARKS:**

I trust this opinion letter will be of assistance to your office. I understand that you may be discussing this matter with County Planning staff. I would be happy to be part of any such discussions, if that would be of assistance.

We look forward to a response from your office.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Ron Davidson', with a stylized flourish at the end.

Ron Davidson, RPP, MCIP

c.c. Usman Bhatti  
Todd Graham