

MUNICIPALITY OF CHATHAM-KENT
COMMUNITY AND DEVELOPMENT SERVICES
PLANNING SERVICES

TO: Mayor and Members of Council

FROM: Marsha Coyne, MCIP, RPP
Senior Planner, Planning Services

DATE: September 8, 2008

SUBJECT: Gengrowth Wind Turbine Project – Removal of the “H”

RECOMMENDATIONS

It is recommended that:

1. The zoning amendment application D-28 HO/97/07/G to remove the “H” – Holding symbol from the Front Line wind turbine project, in the Community of Howard, and the adopting by-law be approved.
2. The zoning amendment application D-28 HA/96/07/G to remove the “H” – Holding symbol from the Bisnett Line wind turbine project, in the Community of Harwich, and the adopting by-law be approved.
3. The zoning amendment application D-28 DO/98/07/G to remove the “H” – Holding symbol from the Marsh Line wind turbine project, in the Community of Dover, and the adopting by-law be approved.
4. The zoning amendment application D-14 TE/19/07/G to remove the “H” – Holding symbol from the Swanton Line wind turbine project, in the Community of Tilbury East, and the adopting by-law be approved.
5. The execution of the Road User Agreement by the Mayor and Clerk be authorized by Council.

BACKGROUND

At a special Planning meeting on April 14, 2008, Council approved four site-specific zoning by-law amendments for the Gengrowth LP1 wind turbine projects. Each of these projects is for the construction of five commercial wind turbines under the Ontario Power Authority Standard Offer Program. The four projects are as follows: Bisnett Line,

Swanton Line, Front Line and Marsh Line. The four amending by-laws included an “H” – Holding Symbol, requiring the applicant to submit the following documents to the Municipality for review and approval by Council:

- site plan agreement
- decommissioning plan
- operational management plan
- construction management plan
- road maintenance agreement
- emergency response plan
- certificate of approval for noise emission
- post construction avian monitoring protocol
- noise complaint protocol

Council also requested that the above-noted documents be submitted for review 30 days prior to the applicant’s request for the removal of the “H” - Holding Symbol. On August 15, 2008 Council was circulated a copy of the above-noted agreements, plans and protocols.

The Site Plan Agreement, Road User Agreement and the Certificates of Approval for noise emission for the Bisnett Line project and the Front Line project were provided to Council in a draft form on August 15, 2008.

COMMENTS

The final Site Plan Agreement, Road User Agreement and the Certificates of Approval for the noise emission for the Bisnett Line project and Front Line project have been completed and are attached as follows:

- The Site Plan Agreement is attached as Schedule “A”
- The Road User Agreement is attached as Schedule “B”
- The Bisnett Line Project Certificate of Approval for noise emission is attached as Schedule “C”
- The Front Line Project Certificate of Approval for noise emission is attached as Schedule “D”

The following will be included in the registered Road User Agreement, which will ensure that the proponent fully implements and carries out all the required protocols and plans to the satisfaction of the Municipality:

- Emergency Response Plan
- Construction Management Plan
- Operational Management Plan
- Post Construction Avian Monitoring Protocol
- Decommissioning Plan
- Noise Complaint Protocol

All of the plans, agreements and protocols requested by Council prior to the removal of the “H” – Holding Symbol have been submitted to Council for review. The applicant has requested that the “H” – Holding Symbol be removed in order to proceed with the development of the four wind turbine projects.

Administration is satisfied with all of the required plans, agreements and protocols submitted to Council and recommend the removal of the “H” – Holding Symbol from the four GenGrowth LP1 wind turbine projects.

COMMUNITY STRATEGIC PLAN

The recommendations in this report support the following objectives and strategic directions:

B. Economy – We are a prosperous community.

B2 Make Chatham-Kent a business-friendly community and a desirable leisure destination.

B4 Encourage the continued growth of a diversified and sustainable economic base.

C. Environment – We are a green community.

C1 Develop pride in the community for its environmental assets.

C4 Promote responsible consumption of non-renewable resources.

Desired Outcomes

- Increase the diversity of area investments, entrepreneurs and skilled workforce.
- Identify Chatham-Kent as a location for new investment.

The recommendations will not adversely impact on the remainder of the Community Strategic Plan.

CONSULTATION

Fire Services has reviewed the emergency response plan and supports the documents as submitted.

Infrastructure and Environmental Services, Building, Enforcement and Licensing Services and Chatham Kent Energy have reviewed the decommissioning plan, operational management plan, construction management plan and the noise complaint protocol and support the documents as submitted.

The post construction avian monitoring protocol was developed by Gengrowth in consultation with Environment Canada and the Ministry of Natural Resources.

Administration has confirmed that the methodology outlined in the protocols is supported by these agencies.

FINANCIAL IMPLICATIONS

Based on the estimate of the proponent and the experience of the other projects in Ontario, there are a number of financial benefits:

- Local permanent jobs – these are estimated at ten persons per 100MW. This would amount to one position each for the Gengrowth projects, or four in total.
- Construction jobs – these are calculated to be about 4,000 man-hours per turbine or about 40 person-years for the four projects.
- Total Developer investment is approximately \$2.4 million per megawatt or about \$96 million for the Gengrowth projects.
- Local construction materials – the value of local materials purchased for construction is about \$90,000 per turbine or \$1.8 million for the Gengrowth projects.
- Landowner compensation is estimated at \$10,000 per turbine per year, or \$200,000.
- Property tax is estimated at \$2,400 per megawatt, or about \$96,000 for the Gengrowth projects.

Any public works associated with road and other infrastructure improvements necessary to accommodate these projects can be addressed through the municipal permit/approval process and will be done at no expense to Chatham-Kent.

Prepared by:

Reviewed by:

Marsha Coyne, MCIP, RPP
Senior Planner, Planning Services

Ralph Pugliese, MCIP, RPP, DPA
Director, Planning Services

Reviewed by:

Reviewed by:

Evelyn Bish, BA
Acting General Manager
Community and Development Services

C.D. Weldon
Chief Administrative Officer

C: Fire Services
Infrastructure and Environmental Services
Building, Enforcement and Licensing Services
Chatham-Kent Energy

Attachments: Schedule A – Site Plan Agreement
Schedule B – Road User Agreement
Schedule C – Bisnett Line Certificate of Approval
Schedule D – Front Line Certificate of Approval
Schedule E – Amending by-laws

\\RTC\Planning\2008\Sept 15-08 Gengrowth Wind Turbine Project – Removal of the “H”

1. The Developer shall design, develop, construct, install, and maintain the structures, access roads and facilities for its wind farm project in substantial conformity with the plans and drawings attached as Schedule "B" to this Agreement.
2. The Developer shall, at its own expense, design and install the access culverts for its wind farm project to the satisfaction of the Corporation's Infrastructure & Environmental Services Department, Public Works Division.
3. The Developer shall, at its own expense, design and install the municipal drain crossings for its wind farm project to the satisfaction of the Corporation's Infrastructure & Environmental Services Department, Drainage Division.
4. The Developer shall provide and execute a grading plan acceptable to the Corporation's Infrastructure & Environmental Services Department, Engineering Division.
5. The Developer shall be responsible for retaining or causing to be retained a licensed tile contractor to repair damages caused during the construction phase to tile drainage systems if required or install header tiles where appropriate in collaboration with the owner of the Lands, for private lands, and to the satisfaction of the Corporation's Infrastructure & Environmental Services Department, Drainage Division, for public lands.
6. The Developer shall be responsible for preparing an emergency response plan acceptable to the Corporation's Community & Development Services, Emergency Services Division.
7. The Developer shall agree to provide all required servicing easements required by the Corporation and any other utility service, as required.
8. The Developer shall complete all of the items referred to in paragraphs 1 to 6 hereof within two years of the issuance of a building permit for the structures and facilities to be constructed on the Lands failing which the site plan approvals evidenced by this Agreement may be revoked at the sole option of the Corporation.
9. The Developer agrees that no construction shall take place on the Lands except in accordance with the plans and drawings hereto attached as Schedule "B" or to be provided by the Developer to the Corporation pursuant to paragraphs 1 to 5 above.
 - (a) The Developer shall deposit the sum of One Hundred Thousand Dollars (\$100,000.00), by way of cash or Letter of Credit, substantially in the form attached hereto as Schedule "C", representing the Developer's costs covering the deductible insurance costs associated with the approved projects.
 - (b) The Corporation shall release a Letter of Credit or cash deposited pursuant to this term on satisfactory completion of the works associated with the approved projects.

10. (a) The Corporation does hereby approve the plans and drawings annexed hereto as Schedule "B" and the location of all structures, access roads, facilities and works in conjunction therewith to be provided as more particularly herein set forth.
- (b) Notwithstanding the foregoing, the following shall be used in interpreting compliance or noncompliance with the terms of this Agreement:

DIMENSIONS AND BUILDING DETAIL

Whether or not the following features are illustrated on any drawing attached to this Agreement, nothing shall prohibit the erection or installation of the following in compliance with the Zoning By-law:

- (A) Horizontal or vertical projections which are required by the Ontario Building Code or other applicable law.

MINOR ALTERATIONS

The following modifications may be made to the attached site plans by the Corporation's Chief Building Official in consultation with Planning Services by means of a signature on an application form for that purpose, which is attached to a revised plan or drawing:

- (A) Minor alteration of the location of structures, access roads and facilities provided that such alterations comply with the Corporation's Zoning By-laws and any Consent(s) granted for the lands by the Corporation under the Ontario Planning Act.
- (B) Amendments to the building area including slight relocation and minor changes to the dimensions of buildings and structures provided that such alterations comply with the Corporation's Zoning By-laws and any Consent(s) granted for the lands by the Corporation under the Ontario Planning Act.

11. The Developer shall maintain the facilities and work to be constructed by it pursuant to paragraphs 1 to 5 inclusive hereof at its sole risk and expense and to the reasonable satisfaction of the Corporation, and in default thereof, the provisions of Section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25, shall apply.
12. To the intent that the burden of the covenants herein contained on the part of the Developer may run with and be binding upon the Lands, the Developer and the Corporation do respectively covenant and agree with each other and with their respective successors and assigns that the Developer's successors in title from time to time of the Lands will henceforth observe and comply with the provisions of this Agreement.

13. The Developer warrants that it has entered into the Lease with the owner of the Lands for the purposes of constructing one or more wind turbines or other required structures together with associated access roads and facilities on the Lands.
14. Every obligation imposed by this Agreement shall be deemed to have been accepted by way of covenant and agreement notwithstanding that those words have not been used.
15. Nothing in this Agreement constitutes waiver of the Developer's duty to comply with any by-law of the Corporation or any other law.
16. The Developer shall be responsible for consulting with and obtaining any necessary approval from all regulatory bodies including authorization under the Ontario Environmental Assessment Act.
17. If any term, covenant or condition of the Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid or be enforced to the full extent permitted by law.

18. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their Corporate Seals duly attested by the hands of their proper signing officers on that behalf.

SIGNED, SEALED AND DELIVERED

Witness

)
)
)
)
) _____
) Name of Owner

)
) _____
) Name of Owner

)
) _____ WIND FARM LIMITED PARTNERSHIP
) REPRESENTED BY ITS GENERAL PARTNER
) 2167308 ONTARIO INC.

)
) _____
) Paul Merkur
) President

)
) I/We have the authority to bind the Corporation.
) The Corporation has the authority to bind the
) partnership.

)
) THE CORPORATION OF THE MUNICIPALITY OF
) CHATHAM-KENT

)
) _____
) Randy R. Hope – Mayor

)
) _____
) Elinor Mifflin – Clerk

)
) I/We have the authority to bind the Corporation.
)

Schedule "A"

(Legal Description)

Schedule "B"

(Site Plan)

Schedule "C"
LETTER OF CREDIT

NAME OF BANK: _____ DATE ISSUED: _____

Letter of Credit No: _____ Amount: _____

TO: The Corporation of The Municipality of Chatham-Kent,
315 King Street West, Chatham, ON

WE HEREBY AUTHORIZE YOU TO DRAW ON THE:

(name and address of Bank)

for the account of _____
(name of customer)

UP TO AN AGGREGATE AMOUNT OF _____
Dollars (\$ _____) available on demand.

PURSUANT TO THE REQUEST OF our customer: _____

we the _____
(name and address of Bank)

hereby establish and give you an Irrevocable Letter of Credit in your favour in the above amount which may be drawn on by you at any time and from time to time, upon written demand for payment made upon us by you which demand we shall honour without inquiring whether you have any right as between yourself and our said customer to make such demand, and without recognizing any claim of our said customer, or objection by it to payment by us.

DEMAND shall be by way of a Letter signed by the Director of Accounting of The Municipality of Chatham-Kent under the corporate seal attached to which shall be the original Letter of Credit. Presentation shall be made to the bank at: _____

(address)

THE LETTER OF CREDIT we understand relates to those Municipal services and financial obligations set out in an Agreement between the customer and The Municipality of Chatham-Kent and referred to as _____

THE AMOUNT of this Letter of Credit may be reduced from time to time as advised by notice in writing to the undersigned from time to time by the Director of Accounting of The Municipality of Chatham-Kent.

THIS LETTER OF CREDIT will continue in force for a period of one year, but shall be subject to the condition hereinafter set forth.

IT IS A CONDITION of this Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to any such future expiration, we notify you in writing by registered mail that we elect not to consider this Letter of Credit to be renewable for any additional period.

PARTIAL DRAWINGS are permitted against this Letter of Credit.

THE UNDERSIGNED acknowledge that as at this date, the Director of Accounting of The Municipality of Chatham-Kent is Stuart Wood.

DATED at Chatham-Kent, Ontario, this _____ day of _____, 2008.

COUNTERSIGNED BY: _____ Per: _____

THIS RIGHT-OF-WAY AGREEMENT made in duplicate this day of , 2008

B E T W E E N:

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT
(Hereinafter referred to as the "Corporation")

OF THE FIRST PART,

- and -

**BISNETT WIND FARM LIMITED PARTNERSHIP, FRONT LINE WIND
FARM LIMITED PARTNERSHIP, MARSH LINE WIND FARM
LIMITED PARTNERSHIP and SWANTON LINE WIND FARM LIMITED
PARTNERSHIP OPERATING AS GENGROWTH**
(Hereinafter referred to as the "Producer")

OF THE SECOND PART.

WHEREAS the Corporation is a municipal corporation within the meaning of the Municipal Act, 2001, S.O. 2001, c. 25, governed by Mayor and Council and operated by Administration, who is hereby authorized to administer the contract in its entirety, including, but not limited to, decisions with respect to the operation and termination of the contract, in accordance with its provisions;

AND WHEREAS the Producer is a limited partnership operating under the laws of the Province of Ontario and has represented to the Corporation that it has the requisite, skill, ability, expertise and qualifications to carry on the business of wind power generation and transmission;

AND WHEREAS the Producer desires the right to use certain portions of the road allowance along a municipal road owned by the Corporation, for the purpose of constructing, operating and maintaining a pole/line system for the transportation of electricity within the road allowance upon the terms and conditions hereinafter set forth;

AND WHEREAS the Corporation has agreed to grant to the Producer the rights described in paragraph 3 of this Agreement for the period described in paragraph 4 of this Agreement upon the terms and conditions of this Agreement;

AND WHEREAS the Producer has agreed to implement the protocols attached as schedules to this agreement;

NOW THEREFORE IN CONSIDERATION of the undertakings and agreement hereinafter expressed and upon the terms hereinafter set forth, the Corporation and the Producer mutually covenant and agree as follows:

1. The parties warrant that the above recitals are true and the same are hereby incorporated into this Agreement by reference.

2. In this Agreement:
 - (a) "Approved Plan" means the Plan as approved by the Road Superintendent.
 - (b) "Crossing" means any place where any components of the pole/line system cross, in whole or in part, any travelled portion of a municipal roadway or municipal drain.
 - (c) "Highways" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof and shall include not only the travelled portion of such highway, but also ditches, driveways, sidewalks, and sodded areas forming part of the open or unopened road allowance now or at any time during the term hereof under the jurisdiction of the Corporation. For greater clarity, the portions of highways affected by this agreement are more particularly located as depicted on the drawing attached as Schedule "A" to this Agreement and further particularly described in Schedule "B" to this Agreement;
 - (d) "Municipality" means and includes the territorial limits under and subject to the jurisdiction of the Corporation on the date when this Agreement takes effect;
 - (e) "Plan" means the plan drawn to scale, showing the Highways where the work is proposed and the location of the proposed Pole/line system or part thereof, together with specifications relating to the proposed Pole/line system or part thereof, as described in Schedule "C", to this Agreement.
 - (f) "Pole/line system" means such poles and lines (with other necessary or incidental appurtenances) situate in the Municipality as the Producer may from time to time require or deem desirable for the transmission of electricity on, over, under, along and through the Highways.
 - (g) "Road Superintendent" means the most senior individual employed by the Corporation with responsibilities for Highways within the Municipality or such other person as may from time to time be designated by Council of the Corporation, who shall use his/her authority in a bona fide reasonably prudent manner.

3. The consent, permission and authority of the Corporation is hereby given and granted to the Producer to enter upon the Highways from time to time and at any time, to the extent they remain under the jurisdiction of the Corporation, to construct, maintain, replace, remove, operate and repair a pole/line system within the municipal right-of-way for the transmission of electricity. The consent, permission and authority hereby given, extends only to the Highways and the Corporation warrants that it need not provide any other right-of-way for the Pole/line system. Should the Corporation dispose of any portion of

the Highways, it shall endeavor to retain an easement in favour of the Producer.

4. The following additional Schedules are attached hereto and form part of this agreement:

Schedule "E" – Emergency Response Plan

Schedule "F" – Construction Management Plan

Schedule "G" – Operational Management Plan

Schedule "H" – Post Construction Avian Monitoring Protocol

Schedule "I" – Decommissioning Plan

Schedule "J" – Noise Complaint Protocol

The Producer covenants and agrees to fully implement and carry out all of the requirements of the aforementioned Protocols and Plans at its sole expense to the satisfaction of the Corporation, in the Corporation's sole discretion acting reasonably, and notwithstanding any other provision of this agreement, this obligation shall survive the termination of this agreement without regard to the mechanism or reason for such termination.

5. The rights hereby given and granted shall be for a 20 year term commencing on _____, 2008 and shall thereafter be automatically renewed for two successive periods of one (1) year. After the end of the two successive renewals, the Agreement will be further automatically renewed unless either party provides sixty (60) days prior notice to the other that they wish the Agreement to be terminated. The term and all renewals are only valid provided that the authority granted in paragraph 3 of this Agreement and the terms and conditions of this Agreement shall continue and remain in force so long thereafter as the Pole/line system is in actual use for the transmission of electricity.
6. The consent, permission and authority hereby given and granted shall be subject to the right of free use of all Highways by all persons entitled to it, and subject to the rights of the owners of the property adjoining the Highways of full access to and from the Highways and of constructing crossings and approaches from their properties, subject to the rights and privileges that the Corporation may grant to other persons on the Highways, all of which rights are expressly reserved, subject to rights shown on the Approved Plan and specifications excepted.
7. Save as hereinafter provided, the consent, permission and authority hereby given and granted to the Producer to enter upon the Highways shall be at all times with the approval of the Road Superintendent. All work done from time to time under this Agreement is subject to the approval of the Road Superintendent who has full power and authority to give directions and orders that he considers in the best interest of the Corporation, and the Producer will follow the orders that the Road superintendent provides.
8. Before commencing any work the Producer will deposit with the Road Superintendent the

Plan. For the purposes of this paragraph, works of the Producer include not only original installations but also any and all repair or relocation work or additions to or replacements of any part of the Pole/line system.

9. The Road Superintendent shall review and consider the Plans submitted by the Producer and may not approve the work or may approve the work with any modifications and upon such terms and conditions as he considers in the best interest of the Corporation. No work of any kind shall be undertaken by the Producer until they are in receipt of the Approved Plan.

10. In connection with work undertaken by the Producer:

- (a) The Producer will not cut, trim or interfere with any trees on the Highways without the specific written approval of the Road Superintendent;
- (b) Wherever the Pole/line system is carried across any open drainage ditch, it shall be carried either wholly under the bottom thereof or above the top thereof, so as not to interfere with the carrying capacity of such ditch; and

11. Notwithstanding the foregoing, in the event of an emergency involving the Pole/line system, the Producer shall notify the responsible police force immediately upon becoming aware of the situation and shall do all that is necessary and desirable to control the emergency, including such work in and to the Highways as may be required for the purpose. As soon as it is convenient after the emergency is discovered, the Producer shall advise the Road Superintendent by telephone and shall keep him advised throughout the emergency. The Producer shall reimburse the Corporation for any and all costs incurred in connection with the emergency. Forthwith after it has become necessary for the Producer to exercise its emergency powers under this paragraph, the Producer shall produce a written report to the Road Superintendent of what work was done and the further work to be undertaken, if any, and seek the approval of the Road Superintendent for the further work as contemplated in the preceding paragraphs.

12. The Producer shall well and sufficiently restore, to the reasonable satisfaction of the Road Superintendent, all Highways, and property which it may excavate or interfere with in the course of constructing, repairing, maintaining, inspecting or removing its Pole/line system, and shall make good any settling or subsidence thereafter caused by such excavation or interference. Such restoration shall be to the same standard, as nearly as may be possible, as was in existence on the Highways when the excavation or interference commenced. If the Producer fails at any time to do any work required by this paragraph within a reasonable time, the Corporation may do or may cause such work to be done and the Producer shall on demand pay any reasonable account therefore as certified by the Road Superintendent.

13. In the placing, maintaining, operating and repairing the Pole/line system or any part thereof the Producer will use care and diligence to ensure that there will be no unnecessary interference with the Highways, or any other municipal works or improvements. If any additional municipal works or improvements are made necessary by reason of any work done or omitted to be done by the Producer, they will be constructed and maintained by the Producer at its own expense during the term of this Agreement.
14. The Producer will indemnify and save harmless the Corporation from and against all claims, liabilities, loss, costs, damages or other expenses of every kind that the Corporation may incur or suffer as a consequence of or in connection with the placing, maintenance, operation or repair of the Pole/line system or any part thereof, except to the extent such claims, liabilities, losses, costs, damages and other expenses are caused by the Corporation's negligence or breach of this Agreement.
15. If either party is prevented from carrying out its obligations under this Agreement by reason of any cause beyond its control, such party shall be relieved from such obligations while such inability continues; provided, however, that this paragraph shall not relieve the Producer from any of its obligations to indemnify the Corporation as contemplated in the preceding paragraph, and provided further that nothing herein shall require either party to settle any illegal labour or similar dispute unless it is in the best interests of such party to do so.
16. The Corporation agrees, in the event of closing of any Highways, to give the Producer reasonable notice of such closing and to provide, if it is practical, the Producer with easements over that part of the closed Highways sufficient to allow the Producer to preserve any part of the Pole/line system in its then existing location, and to enter upon the closed Highways to maintain and repair such part of the Pole/line system.
17. If the Corporation, in pursuance of its statutory powers, decides to alter the construction of any Highways or of any municipal works or improvements, or to construct, lay down, or establish any municipal works or improvements, and if the location of any part of the Pole/line system interferes with the location of construction of such alteration, work or improvement, in a substantial manner, then upon receipt of reasonable notice in writing from the Corporation specifying the point where such part of the Pole/line system interferes with the plans of the Corporation, the Producer shall, subject to any regulatory requirements, alter or relocate such part of the Pole/line system at the point specified to a location designated by the Road Superintendent within a reasonable period of time. In default of the Producer complying with the notice, the Corporation may remove, relocate or alter the part of the Pole/line system described in the notice and recover the cost of so doing from the Producer regardless of the provisions hereafter concerning the party

responsible for the costs of the alteration or relocation. In the event the Corporation requires the alteration or relocation for its own purposes, the Corporation shall reimburse the Producer for one-half of the labour and equipment cost involved in the alteration or relocation. If the provisions of this paragraph are triggered as a result of the Corporation's compliance with a legislative requirement, Ministerial order or such other law or order of a body which has the ability to force the Corporation to act, then all costs of the alteration or relocation of the Pole/line system shall be the sole responsibility of the Producer.

18. In the event that the Producer should abandon the Pole/line system or any part thereof during the term of this Agreement, the Producer shall give written notice of its abandonment to the Corporation. Upon the giving of such an abandonment notice or upon the expiration of this Agreement or any renewal thereof the Producer shall, unless otherwise agreed upon by the parties hereto, remove all of its Pole/line system from the Highways at its sole liability and expense.
19. It is acknowledged and agreed by the parties that this Agreement is subject to the provisions of all applicable regulating statutes and regulations.
20. Any notice to be given under any of the provisions hereof may be effectually given to the Corporation by delivering the same to the Clerk of the Corporation or by sending the same by registered mail, postage prepaid, addressed to the attention of the Clerk of the Corporation, and to the Producer by delivering the same to its head office, or by sending the same to its business office by registered mail, postage prepaid, addressed to **4950 Yonge Street, Suite 2200 Toronto, ON M2N 6K1**. If any notice is sent by mail, the same shall be deemed to have been given on the fourth (4th) day next following the posting thereof, provided that in the event of a disruption in postal service, by reason of a strike or work slowdown or other element of labour dispute, either at the point of mailing or the point of delivery, any notice sent by mail shall be deemed to have been given on the day when it is actually received by the addressee of such notice.
21. The producer may not assign any part of this Agreement without the written approval of the Corporation unless the Assignee covenants in favour of the Corporation to assume full responsibility for this Agreement. Notwithstanding the foregoing:
 - a) the Producer shall be able to assign this Agreement, and all of its rights, privileges, interests and benefits therein, without the prior consent of the Corporation to its lender(s) or anyone to whom the Producer has granted security or provided a guarantee in respect of the wind farm to be developed by the Producer in the Municipality of Chatham-Kent (herein referred to collectively as the "Lenders" and individually as the "Lender") and,

- b) the Lender(s) shall be able to assign this Agreement, and all of its rights, privileges, interests and benefits arising therein, to any persons in connection with and enforcement of their security, with the prior written consent of the Corporation, not be unreasonably withheld or delayed. The Corporation shall execute and deliver the Acknowledgement and Consent Agreement in favour of such Lender(s) in the form attached hereto as Schedule "D". No assignment by either the Corporation or the Producer shall be effective unless and until the assignee executes a counterpart of this Agreement (without the need for any other party to execute that counterpart) agreeing to be bound by the terms hereof to the same extent as if it had been an original party hereto, provided that such requirement shall not apply to any assignment to any Lender(s) of the Producer or as security for the Producer's obligations to such Lender(s).

22. The Producer shall procure and maintain Liability Insurance and shall file with the Corporation, together with the Agreement executed by it; the required information on Insurance Bureau of Canada Form IBC 2100 dated 03-2005, or such substantially similar form as may be acceptable to the Corporation, in its sole discretion.

The Liability Insurance shall:

- a) have a limit of liability of not less than Five Million Dollars (\$5,000,000) inclusive for any occurrence;
- b) be Commercial General Liability Insurance covering all operations and liability assumed under the Contract with the Corporation. The Commercial General Liability Insurance Policy shall be written on an occurrence form and include:

Premises and Operations
Products and Completed Operations
Blanket Contractual
Broad Form Property Damage
Contingent Employer's Liability
Cross Liability
Severability of Interests
Owners and Contractors Protective
Personal Injury
Employer's Liability
Employees as additional insureds
Non-owned Automobile including OEF #96
Hostile Fire;

- c) if the work is to include shoring, underpinning, etc. the policy must not contain any exclusions with respect to the intended work. A copy of the endorsement or a letter from the insurer verifying coverage is to accompany the Certificate of Insurance;

- d) include insurance against liability for bodily injury and property damage caused by vehicles owned by the Contractor and used in conjunction with the work either within or outside the contract limits, and shall have a limit of liability of not less than \$5,000,000 inclusive for any one occurrence;
- e) include a Contractor's Equipment Floater in sufficient amount to provide full coverage for the Contractor's Equipment that may be located on the Corporation's lands, from time to time, throughout the duration of this Contract;
- f) be endorsed to provide that the policy or policies will not be altered, cancelled or allowed to lapse without thirty (30) days prior written notice to the Corporation. This notice shall include the Contract Number from this Tender and be filed with the Municipality of Chatham-Kent, Legal Services, 315 King Street, PO Box 640, Chatham, ON., N7M 5K8, Fax: 519-436-3250;
- g) be endorsed to include the Corporation as additional insured.

23. Other or special conditions if applicable:

- (a) A certified cheque or cash in the amount of One Thousand (\$1,000.00) Dollars per crossing shall be deposited with the Corporation , prior to construction, by the Producer each time an application to construct, reconstruct or alter a pole/line over or across the Highways, or a municipal drain is approved, as surety that all conditions and disturbances which are unsatisfactory to the municipality, after completion of such construction, reconstruction or alteration will be rectified upon receipt of written notice from the Corporation. For further clarification, each crossing of a municipal drain, will be considered as a separate pole/line crossing and will require separate deposits and crossing fees. The Producer shall provide four (4) copies of "as constructed" drawings of the completed project for the records of the Corporation, prior to release of any deposits. All deposits will be returned to the Producer within three (3) months of notification by the Producer to the Corporation, of completion of the said construction, reconstruction or alteration, subject to the supplying of the "as constructed" drawings and the satisfactory completion of repairs requested by the Corporation.
- (b) The Producer shall pay an annual fee for the privilege of being provided a use within the Highway. The initial payment shall be due and payable upon execution of the Agreement with subsequent payments due January 1 annually. For the initial five year period the annual fee shall be Five Thousand (\$5,000.00) Dollars and for each subsequent five year period the fee shall not increase by more than the All Canada Consumer Price Index as published by Statistics Canada has increased over the same five year period.
- (c) The Pole/line system shall be posted after completion of installation, so as to identify it as a Pole/line system owned and maintained by the Producer, together with the Producers maintenance and emergency contact information, at the expense of the Producer.

24. If the Producer shall commit a breach of or omit to comply with any of the provisions of this Agreement, the Corporation may give to the Producer notice in writing specifying the breach complained of and indicating the intention of the Corporation to terminate the consent, permission and authority of the Corporation hereby given and granted to the Producer unless the Producer shall have remedied the breach, within the period mentioned in the notice, which period shall be not less than one month. After the expiration of the period mentioned in such notice, the consent, permission and authority of the Corporation hereby given and granted to the Producer, shall at the option of the Corporation, terminate, and the Producer shall deactivate the Pole/line system and the provisions of paragraph 16 shall apply mutatis mutandis; and the obligation of the Producer to deactivate and all other obligations of the Producer hereunder shall continue under this Agreement until all of such obligations have been complied with and completed in full.
25. Any controversy, dispute, difference, question or claim arising between the parties hereto in connection with the interpretation, performance, construction or implementation of this Agreement that cannot be resolved by a director or manager from each of the said parties (collectively "Dispute") shall be settled in accordance with this clause. The aggrieved party shall send the other party written notice identifying the Dispute, the amount involved, if any, and the remedy sought, and invoking the procedures of this clause. The Vice-President and COO of the Producer and CAO of the Corporation shall confer in an effort to resolve the Dispute. If they are unable to resolve the Dispute within 5 business days after receipt of the written notice of the Dispute, then the parties may submit the Dispute to mediation. If the parties submit the Dispute to mediation and are unable to resolve the said Dispute through mediation, the parties may pursue any other remedies available to them at law.
26. This Agreement shall be constructed with all changes in number and gender as may be required by the context.
27. All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants.
28. Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
29. The Parties agree that all covenants and conditions contained in this Agreement shall be

severable, and that should any covenant or condition in the Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby.

30. This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

31. This Agreement shall extend to, benefit and bind the parties thereto, their successors and assigns, respectively.

IN WITNESS WHEREOF the parties hereto have duly executed these presents with effect from the day first above written.

) **BISNETT WIND FARM LIMITED**
) **PARTNERSHIP by its General Partner**
) **2167308 Ontario Inc.**
)
) Per: _____
) Signing Officer

) **FRONT LINE WIND FARM LIMITED**
) **PARTNERSHIP by its General Partner**
) **2167308 Ontario Inc.**
)
) Per: _____
) Signing Officer

) **MARSH LINE WIND FARM LIMITED**
) **PARTNERSHIP by its General Partner**
) **2167308 Ontario Inc.**
)
) Per: _____
) Signing Officer

) **SWANTON LINE WIND FARM LIMITED**
) **PARTNERSHIP by its General Partner**
) **2167308 Ontario Inc.**
)
) Per: _____
) Signing Officer

) **THE CORPORATION OF THE MUNICIPALITY OF**
) **CHATHAM-KENT**

) Per: _____
) Mayor – Randy Hope

) Per: _____
) Clerk – Elinor Mifflin

SCHEDULE 'A'

to an Agreement Dated

between

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

and

BISNETT WIND FARM LIMITED PARTNERSHIP

PIN#: 00933-0281

PIN#: 00933-0035

PIN#: 00933-0036

and

FRONT LINE WIND FARM LIMITED PARTNERSHIP

PIN#: 00683-0008

PIN#: 00683-0007

and

MARSH LINE WIND FARM LIMITED PARTNERSHIP

PIN#: 00767-0056

PIN#: 00770-0077

PIN#: 00770-0020

PIN#: 00770-0081

and

SWANTON-LINE WIND FARM LIMITED PARTNERSHIP

PIN#: 00822-0011

PIN#: 00822-0033

PIN#: 00822-0022

(Insert map(s) illustrating roads subject to this agreement)

SCHEDULE 'B'

to an Agreement Dated

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited Partnership,
Marsh Line Wind Farm Limited Partnership and Swanton Line Wind Farm Limited Partnership

(Insert text describing roads subject to this agreement)

EXAMPLE:

_____ Road approximately 450 metres northerly from the
intersection of _____ Road and _____ Line.

Etc.

Etc.

Etc.

SCHEDULE "C"

to an Agreement Dated

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited
Partnership, Marsh Line Wind Farm Limited Partnership and Swanton Line Wind
Farm Limited Partnership

SCHEDULE "D"

to an Agreement Dated

between

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

and

BISNETT WIND FARM LIMITED PARTNERSHIP

and

FRONT LINE WIND FARM LIMITED PARTNERSHIP

and

MARSH LINE WIND FARM LIMITED PARTNERSHIP

and

SWANTON LINE WIND FARM LIMITED PARTNERSHIP

OPERATING AS "GENGROWTH"

ACKNOWLEDGEMENT AND CONSENT AGREEMENT

This Owner's Acknowledgement and Consent Agreement ("**Acknowledgement**") made of the • day of •, 2008 by and between THE CORPORATION OF MUNICIPALITY OF CHATHAM-KENT (the "**Owner**") and •, as agent (the "**Agent**") pursuant to a credit agreement dated •, 2007 (the "**Credit Agreement**") between, *inter alia*, GENGROWTH the Agent, • and the other financial institutions from time to time party thereto, as lenders (collectively, the "**Lenders**") and •, in its capacity as collateral agent under the Agreement made as of •, 2008 (as amended from time to time, the "**Collateral Agency Agreement**") between •, the persons who are, and from time to time become, parties thereto as guarantors (including) and • (the "**Collateral Agent**"), as agent for the Secured Creditors (as defined therein).

WHEREAS:

- A. GENGROWTH entered into a Right-of-Way Agreement dated • registered against title to the lands described in the Agreement (the "**Lands**") on • as Instrument No. • (the "**Agreement**"), pursuant to which the Owner has granted to GENGROWTH, *inter alia*, certain rights in connection with access to municipal roads (the "**Rights**") on the terms and conditions set out in the Agreement.
- B. Pursuant to, respectively, the Credit Agreement and the Collateral Agency Agreement (and documentation delivered in connection therewith), the Agent and Collateral Agent, respectively, have been granted charges, mortgages, assignments and security interests (collectively, the "**Security Interests**") in all of the property, undertaking, assets, interests, rights and benefits of GENGROWTH, including without limitation, all of GENGROWTH right title, estate, interest and equity in the Lands, the Agreement, the Easement, all rights, privileges, benefits, agreements and interests therein, and all improvements, equipment, structures, chattels, personal property and appurtenance thereto in, on, under or appurtenant to the Lands (collectively, the "**Collateral**").

- C. The Owner has agreed to execute and deliver this Acknowledgement to the Agent and the Collateral Agent pursuant to the provisions of the Agreement.

NOW THEREFORE in consideration of the sum of Two Dollars (\$2) paid by each of the Agent and the Collateral Agent to the Owner and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby acknowledges, covenants and confirms to each of the Agent and the Collateral Agent, as follows:

1. The Owner consents to the creation of the Security Interests and the registration thereof on the title to the Lands in the applicable land registry office(s).
2. The Owner acknowledges that, following an event of default by GENGROWTH under the Credit Agreement or an event of default as defined in the Collateral Agency Agreement (each, and “**Event of Default**”), the Agent, the Lenders, the Collateral Agent or the Secured Creditors or any nominee or designee thereof or any receiver or receiver-manager (collectively, an “**Agent Party**”) shall have the right to enforce the Security Interests, including, without limitation, the right to enjoy and enforce the rights of GENGROWTH under the Agreement and, in the course of the enforcement of such rights, shall be entitled to sell, assign, transfer, negotiate or otherwise dispose of the Agreement, provided that in exercising such rights the Agent Party shall assume all of the liabilities and obligations of GENGROWTH under or in connection with the Agreement.
3. The Owner agrees:
 - (a) to give each of the Agent and the Collateral Agent written notice (at the addresses below) of any default by GENGROWTH under the Agreement, concurrent with the delivery of such notice to GENGROWTH;
 - (b) that if GENGROWTH fails to cure the breach or default identified in such notice, the Agent, the Collateral Agent or any other Agent Party may, but in no way shall be obligated to, cure such default and the Owner shall not terminate the Agreement or exercise any other remedy under the Agreement if the Agent, the Collateral Agent or any other Agent Party is proceeding to cure such breach or default;
 - (c) that if any default by GENGROWTH under the Agreement is not of a curable nature, it shall not exercise any right to terminate if the Agent, the Collateral Agent or any other Agent Party or a nominee thereof agrees to assume the rights and obligations of GENGROWTH under the Agreement to the extent capable of being assumed;
 - (d) that if the Agreement is terminated or surrendered for any reason prior to the expiry of the term thereof, whether as a result of a default by GENGROWTH thereunder or otherwise, the Owner shall give notice of such termination to each of the Agent and the Collateral Agent and shall offer to enter into a new or replacement agreement (the “**Replacement Agreement**”) with the Agent, the Collateral Agent or another Agent Party or other person designated by, as applicable, the Agent, the Collateral Agent or other Agent Party, which Replacement Agreement shall be upon the same terms and conditions as the Agreement; and
 - (e) that if within 30 days of receipt of the notice referred to in item (d) above, the Agent or the Collateral Agent requests a Replacement Agreement, the Owner shall enter into such Replacement Agreement with, as applicable, the Agent, the Collateral Agent or another Agent Party or other person designated by the Agent or the Collateral Agent. Notwithstanding any of the foregoing, the Agent Party confirms and acknowledges that the Owner shall not be liable to the Agent Party for the non-delivery of any notice pursuant to subparagraph (a) above.
4. The Agent covenants and agrees with the Owner that during any period the Agent exercises its Security Interests and takes possession of GENGROWTH’s interest in the Lands (either directly or indirectly through an Agent Party) or takes control of or manages GENGROWTH’s interest in the Lands or the Collateral or any part thereof, or forecloses upon the Agreement, or succeeds to the interest of GENGROWTH under the Agreement, it

will assume all of the obligations of GENGROWTH under or in connection with the Agreement during such period, and thereafter observe and perform all of GENGROWTH's obligations under the Agreement.

5. The Collateral Agent covenants and agrees with the Owner that during any period the Agent exercises its Security Interests and takes possession of GENGROWTH's interest in the Lands (either directly or indirectly through an Agent Party) or takes control of or manages GENGROWTH's interest in the Lands or the Collateral or any part thereof, or forecloses upon the Agreement, or succeeds to the interest of GENGROWTH under the Agreement, it will assume all of the obligations of GENGROWTH under or in connection with the Agreement during such period, and thereafter observe and perform all of GENGROWTH's obligations under the Agreement.
6. The Owner confirms and acknowledges that in the event that either the Agent or the Collateral Agent assigns, transfers or otherwise disposes of its interest in the Agreement pursuant to its Security Interests (a "Transfer"), and upon such assignee or transferee covenanting and agreeing in writing with the Owner to assume and perform all of the covenants and obligations of GENGROWTH pursuant to the Agreement, each of the Agent and the Collateral Agent shall, thereupon and without further agreement, be freed and relieved of all liability with respect to the Agreement from and after the effective date of such Transfer.
7. All notices hereunder shall be in writing, sent by registered mail, return receipt requested or by telecopy, to the respective parties and the addresses set forth on the signature page or at such other address as the receiving party shall designate in writing.
8. This Acknowledgement may be executed in any number of counterparts, shall be governed by the laws of the Province of Ontario and binds and inures to the benefit of the Agent, and its successors and assigns, the Collateral Agent, and its successors and assigns and shall be binding upon the heirs, personal representatives, successors and assigns of the Owner.
9. Each of the parties hereto agrees to do, make and execute all such further documents, agreements, assurances, acts, matters and things and take such further action as may be reasonably required by any other party hereto in order to more effectively carry out the true intent of this Acknowledgement.
10. The provisions of this Acknowledgement shall continue in effect until the Owner shall have received the written certification of the Agent and the Collateral Agent that all amounts advanced, and obligations arising, under the Credit Agreement and all Obligations (as defined in the Collateral Agency Agreement) have been paid and performed in full.

IN WITNESS WHEREOF, this Acknowledgement is executed by the parties.

NOTICE OF ADDRESS

THE CORPORATION OF THE
MUNICIPALITY OF
CHATHAM-KENT

By: _____
Name:
Title:
I have authority to bind the Corporation.

Fax: _____

Date of Signature: _____
By: _____
Name: _____
Title: _____

SCHEDULE "E"

to an Agreement Dated

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited Partnership, Marsh Line
Wind Farm Limited Partnership and Swanton Line Wind Farm Limited Partnership

EMERGENCY RESPONSE PLAN

SCHEDULE "F"

to an Agreement Dated

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited Partnership, Marsh Line
Wind Farm Limited Partnership and Swanton Line Wind Farm Limited Partnership

CONSTRUCTION MANAGEMENT PLAN

SCHEDULE "G"

to an Agreement Dated

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited Partnership, Marsh Line

Wind Farm Limited Partnership and Swanton Line Wind Farm Limited Partnership

OPERATIONAL MANAGEMENT PLAN

SCHEDULE "H"

to an Agreement Dated _____

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited Partnership, Marsh Line

Wind Farm Limited Partnership and Swanton Line Wind Farm Limited Partnership

POST CONSTRUCTION AVIAN MONITORING PROTOCOL

SCHEDULE "I"

to an Agreement Dated

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited Partnership, Marsh Line

Wind Farm Limited Partnership and Swanton Line Wind Farm Limited Partnership

DECOMMISSIONING PLAN

SCHEDULE "J"

to an Agreement Dated

between

The Corporation of The Municipality of Chatham-Kent

and

Bisnett Wind Farm Limited Partnership, Front Line Wind Farm Limited Partnership, Marsh Line
Wind Farm Limited Partnership and Swanton Line Wind Farm Limited Partnership

NOISE COMPLAINT PROTOCOL



Ministry of the Environment
Ministère de l'Environnement

CERTIFICATE OF APPROVAL

AIR

NUMBER 7058-7F9PAR

Issue Date: September 8, 2008

GenGrowth LP 1
4950 Yonge St, No. Suite 2200
Toronto, Ontario
M2N 6K1

Site Location: Bisnett Line Wind Farm
Harwich Township
Lot 4, Concession 4
Chatham-Kent Municipality,

You have applied in accordance with Section 9 of the Environmental Protection Act for approval of:

- five (5) wind turbine generators, designated as source ID Nos. 1 to 5, each rated at 2 megawatts generating output capacity, with a hub height of 78 metres above grade, and sited at the location indicated in the supporting information submitted with the application;

All in accordance with the Application for Certificate of Approval (Air & Noise) dated , May, 5 2008 and signed by Paul Merkur, President, GenGrowth Renewables Inc., and all supporting information associated with the application including an Acoustic Assessment Report prepared by Boralex, dated January, 11, 2008.

For the purpose of this Certificate of Approval and the terms and conditions specified below, the following definitions apply:

- (1) "Act" means the *Environmental Protection Act*;
- (2) "Certificate" means this Certificate of Approval issued in accordance with Section 9 of the Act;
- (3) "Company" means GenGrowth Renewables Inc. (general partner) and GenGrowth LP1 (limited partner) operating in partnership as GenGrowth LP1 that is responsible for the construction or operation of the *Facility* and includes any successors and assigns;
- (4) "District Manager" means the District Manager of the appropriate local district office of the *Ministry*, where the *Facility* is geographically located;
- (5) "Equipment" means the wind turbine generators described in the Company's application, this Certificate and in the supporting documentation submitted with the application, to the extent approved by this Certificate;
- (6) "Facility" means the entire operation located on the properties where the Equipment is located;
- (7) "Interpretation Document for Wind Turbine Generators" means the Ministry document entitled, "*Interpretation for Applying MOE NPC Technical Publications to Wind Turbine Generators*", dated July 6, 2004, as amended;
- (8) "Manual" means a document or a set of documents that provide written instructions to staff of the Company;
- (9) "Ministry" means the Ontario Ministry of the Environment; and
- (10) "Performance Limits" means the performance limits specified in the section of this *Certificate* titled Performance Limits.

CONTENT COPY OF ORIGINAL

You are hereby notified that this approval is issued to you subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

NOISE

1. The Company shall ensure that the noise emissions from the Facility comply with the limits set in the Interpretation Document for Wind Turbine Generators.

OPERATION AND MAINTENANCE

2. The Company shall ensure that the Equipment is properly operated and maintained at all times. The Company shall:

(1) prepare, not later than three (3) months after the date of this Certificate, and update, as necessary, a Manual outlining the operating procedures and a maintenance program for the Equipment, including:

(a) routine operating and maintenance procedures in accordance with good engineering practices and as recommended by the Equipment suppliers;

(b) emergency procedures;

(c) procedures for any record keeping activities relating to operation and maintenance of the Equipment; and

(d) all appropriate measures to minimize noise emissions from all potential sources;

(2) implement the recommendations of the Manual.

RECORD RETENTION

3. The Company shall retain, for a minimum of two (2) years from the date of their creation, all records and information related to or resulting from the recording activities required by this Certificate, and make these records available for review by staff of the Ministry upon request. The Company shall retain:

(1) all records on the maintenance, repair and inspection of the Equipment; and

(2) all records of any environmental complaints; including:

(a) a description, time and date of each incident to which the complaint relates;

(b) wind direction at the time of the incident to which the complaint relates; and

(c) a description of the measures taken to address the cause of the incident to which the complaint relates and to prevent a similar occurrence in the future.

NOTIFICATION OF COMPLAINTS

4. The Company shall notify the District Manager, in writing, of each environmental complaint within two (2) business days of the complaint. The notification shall include:

(1) a description of the nature of the complaint; and

(2) the time and date of the incident to which the complaint relates;

CONTENT COPY OF ORIGINAL

The reasons for the imposition of these terms and conditions are as follows:

1. Condition No.1 is included to provide minimum performance requirements considered necessary to prevent an adverse effect resulting from the operation of the Facility.
2. Condition No. 2 is included to emphasize that the Equipment must be maintained and operated according to a procedure that will result in compliance with the Act, the Regulations and this Certificate.
3. Condition No. 3 is included to require the Company to keep records and to provide information to staff of the Ministry so that compliance with the Act, the Regulations and this Certificate can be verified.
4. Condition No. 4 is included to require the Company to notify staff of the Ministry so as to assist the Ministry with the review of the site's compliance.

In accordance with Section 139 of the Environmental Protection Act, R.S.O. 1990, Chapter E-19, as amended, you may by written notice served upon me and the Environmental Review Tribunal within 15 days after receipt of this Notice, require a hearing by the Tribunal. Section 142 of the Environmental Protection Act, provides that the Notice requiring the hearing shall state:

1. The portions of the approval or each term or condition in the approval in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

The Notice should also include:

3. The name of the appellant;
4. The address of the appellant;
5. The Certificate of Approval number;
6. The date of the Certificate of Approval;
7. The name of the Director;
8. The municipality within which the works are located;

And the Notice should be signed and dated by the appellant.

This Notice must be served upon:

The Secretary*
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto, Ontario
M5G 1E5

AND

The Director
Section 9, *Environmental Protection Act*
Ministry of the Environment
2 St. Clair Avenue West, Floor 12A
Toronto, Ontario
M4V 1L5

*** Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal at:
Tel: (416) 314-4600, Fax: (416) 314-4506 or www.ert.gov.on.ca**

The above noted works are approved under Section 9 of the Environmental Protection Act.

DATED AT TORONTO this 8th day of September, 2008

Victor Low, P.Eng.
Director
Section 9, *Environmental Protection Act*

DM/
c: District Manager, MOE Windsor

CONTENT COPY OF ORIGINAL

Jeffrey Segal, GenGrowth Renewables Inc



Ministry of the Environment
Ministère de l'Environnement

CERTIFICATE OF APPROVAL

AIR

NUMBER 7812-7FNPSW

Issue Date: September 5, 2008

Gengrowth LP1
4950 Yonge St, No. Suite 2200
Toronto, Ontario
M2N 6K1

Site Location: Front Line Wind Farm
Lot 95, Concession North Talbot Road
Chatham-Kent Municipality,

You have applied in accordance with Section 9 of the Environmental Protection Act for approval of:

- five (5) wind turbine generators, designated as sources ID Nos. 1 to 5 inclusive, each rated at 2.0 megawatts generating output capacity, with a hub height of 78 metres above grade, and sited at the locations indicated in the supporting information submitted with the application.

All in accordance with the Application for Certificate of Approval (Air & Noise) dated May 5, 2008 and signed by Paul Merkur, President, Gengrowth Renewables Inc., as the general partner of Gengrowth LP1, and all supporting information associated with the application including a Noise Report, dated January 11, 2008 and a revised Table 1: *Wind turbine noise emission summary table*, dated January 16, 2008, prepared by Boralex.

For the purpose of this Certificate of Approval and the terms and conditions specified below, the following definitions apply:

1. "*Certificate*" means this entire certificate of approval document, issued in accordance with section 9 of the *EPA*;
2. "*Company*" means Gengrowth Renewables Inc. (general partner) and Gengrowth LP1 (limited partner) operating in partnership as Gengrowth LP1 that is responsible for the construction or operation of the *Facility* and includes any successors and assigns;
3. "*Director*" means any person appointed in writing by the Minister of the Environment pursuant to section 5 of the *EPA* as a Director for the purposes of section 9 of the *EPA*;
4. "*District Manager*" means the District Manager of the appropriate local district office of the *Ministry*, where the *Facility* is geographically located;
5. "*Equipment*" means the wind turbine generators described in the *Company's* application, this *Certificate* and in the supporting documentation submitted with the application, to the extent approved by this *Certificate*;
6. "*EPA*" means the Environmental Protection Act, R.S.O. 1990, c.E.19;
7. "*Facility*" means the entire operation located on the properties where the *Equipment* are located;
8. "*Interpretation Document for Wind Turbine Generators*" means the Ministry document entitled, "*Interpretation for Applying MOE NPC Technical Publications to Wind Turbine Generators*", dated July 6, 2004, as amended;
9. "*Manual*" means a document or a set of documents that provide written instructions to staff of the *Company*;
10. "*Ministry*" means the ministry of the government of Ontario responsible for the *EPA* and includes all officials,

CONTENT COPY OF ORIGINAL

employees or other persons acting on its behalf;

11. "*Performance Limits*" means the performance limits specified in the section of this *Certificate* titled Performance Limits; and

12. "*Publication NPC-232*" means the *Ministry* Publication NPC-232, "Sound Level Limits for Stationary Sources in Class 3 Areas (Rural)", October, 1995 as amended.

You are hereby notified that this approval is issued to you subject to the terms and conditions outlined below:

TERMS AND CONDITIONS

PERFORMANCE LIMITS

1. The *Company* shall ensure that the noise emissions from the *Facility* comply with the limits set in the *Interpretation Document for Wind Turbine Generators*.

OPERATION AND MAINTENANCE

2. The *Company* shall ensure that the *Equipment* is properly operated and maintained at all times. The *Company* shall:

(1) prepare, not later than three (3) months after the date of this *Certificate*, and update, as necessary, a *Manual* outlining the operating procedures and a maintenance program for the *Equipment*, including:

(a) routine operating and maintenance procedures in accordance with good engineering practices and as recommended by the *Equipment* suppliers;

(b) emergency procedures;

(c) procedures for any record keeping activities relating to operation and maintenance of the *Equipment*; and

(d) all appropriate measures to minimize noise emissions from all potential sources;

(2) implement the recommendations of the *Manual*.

RECORD RETENTION

3. The *Company* shall retain, for a minimum of two (2) years from the date of their creation, all records and information related to or resulting from the recording activities required by this *Certificate*, and make these records available for review by staff of the *Ministry* upon request. The *Company* shall retain:

(1) all records on the maintenance, repair and inspection of the *Equipment*; and

(2) all records of any environmental complaints; including:

(a) a description, time and date of each incident to which the complaint relates;

(b) wind direction at the time of the incident to which the complaint relates; and

(c) a description of the measures taken to address the cause of the incident to which the complaint relates and to prevent a similar occurrence in the future.

NOTIFICATION OF COMPLAINTS

CONTENT COPY OF ORIGINAL

4. The *Company* shall notify the *District Manager*, in writing, of each environmental complaint within two (2) business days of the complaint. The notification shall include:

- (1) a description of the nature of the complaint; and
- (2) the time and date of the incident to which the complaint relates;

The reasons for the imposition of these terms and conditions are as follows:

1. Condition No.1 is included to provide minimum performance requirements considered necessary to prevent an adverse effect resulting from the operation of the *Facility*.
2. Condition No. 2 is included to emphasize that the *Equipment* must be maintained and operated according to a procedure that will result in compliance with the *Act*, the Regulations and this *Certificate*.
3. Condition No. 3 is included to require the *Company* to keep records and to provide information to staff of the *Ministry* so that compliance with the *Act*, the Regulations and this *Certificate* can be verified.
4. Condition No. 4 is included to require the *Company* to notify staff of the *Ministry* so as to assist the *Ministry* with the review of the site's compliance.

In accordance with Section 139 of the Environmental Protection Act, R.S.O. 1990, Chapter E-19, as amended, you may by written notice served upon me and the Environmental Review Tribunal within 15 days after receipt of this Notice, require a hearing by the Tribunal. Section 142 of the Environmental Protection Act, provides that the Notice requiring the hearing shall state:

1. The portions of the approval or each term or condition in the approval in respect of which the hearing is required, and;
2. The grounds on which you intend to rely at the hearing in relation to each portion appealed.

The Notice should also include:

3. The name of the appellant;
4. The address of the appellant;
5. The Certificate of Approval number;
6. The date of the Certificate of Approval;
7. The name of the Director;
8. The municipality within which the works are located;

And the Notice should be signed and dated by the appellant.

This Notice must be served upon:

The Secretary*
Environmental Review Tribunal
655 Bay Street, 15th Floor
Toronto, Ontario
MSG 1E5

AND

The Director
Section 9, *Environmental Protection Act*
Ministry of the Environment
2 St. Clair Avenue West, Floor 12A
Toronto, Ontario
M4V 1L5

* Further information on the Environmental Review Tribunal's requirements for an appeal can be obtained directly from the Tribunal at:
Tel: (416) 314-4600, Fax: (416) 314-4506 or www.ert.gov.on.ca

CONTENT COPY OF ORIGINAL

The above noted works are approved under Section 9 of the Environmental Protection Act.

DATED AT TORONTO this 5th day of September, 2008

Victor Low, P.Eng.
Director
Section 9, *Environmental Protection Act*

JK/
c: District Manager, MOE Windsor
Jeffrey Segal, Gengrowth LP1

CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. _____

A BY-LAW TO AMEND ZONING BY-LAW 86-65

OF THE FORMER TOWNSHIP OF HOWARD

(Gengrowth LP1)
Hansen# - 4046

WHEREAS the land referred to herein is subject to a holding symbol under zoning By-law 86-65, as amended, of the former Township of Howard;

AND WHEREAS an application for an amendment to the zoning by-law to permit development of the said lands has been received by the Corporation;

AND WHEREAS the conditions necessary for removal of the holding symbol have been fulfilled to Council's satisfaction;

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED AS By-law No. _____ of the Corporation of the Municipality of Chatham-Kent:

1. That Map No. "25" to Schedule "A" (Zone Map) of By-law 86-65, as amended, of the former Township of Howard, be amended by removing the holding symbol "H" from the zone classification of the lands so depicted on Schedule "A" hereto annexed and forming part of this by-law, so that the said lands shall be zoned "A2-73, Agricultural Zone 2".

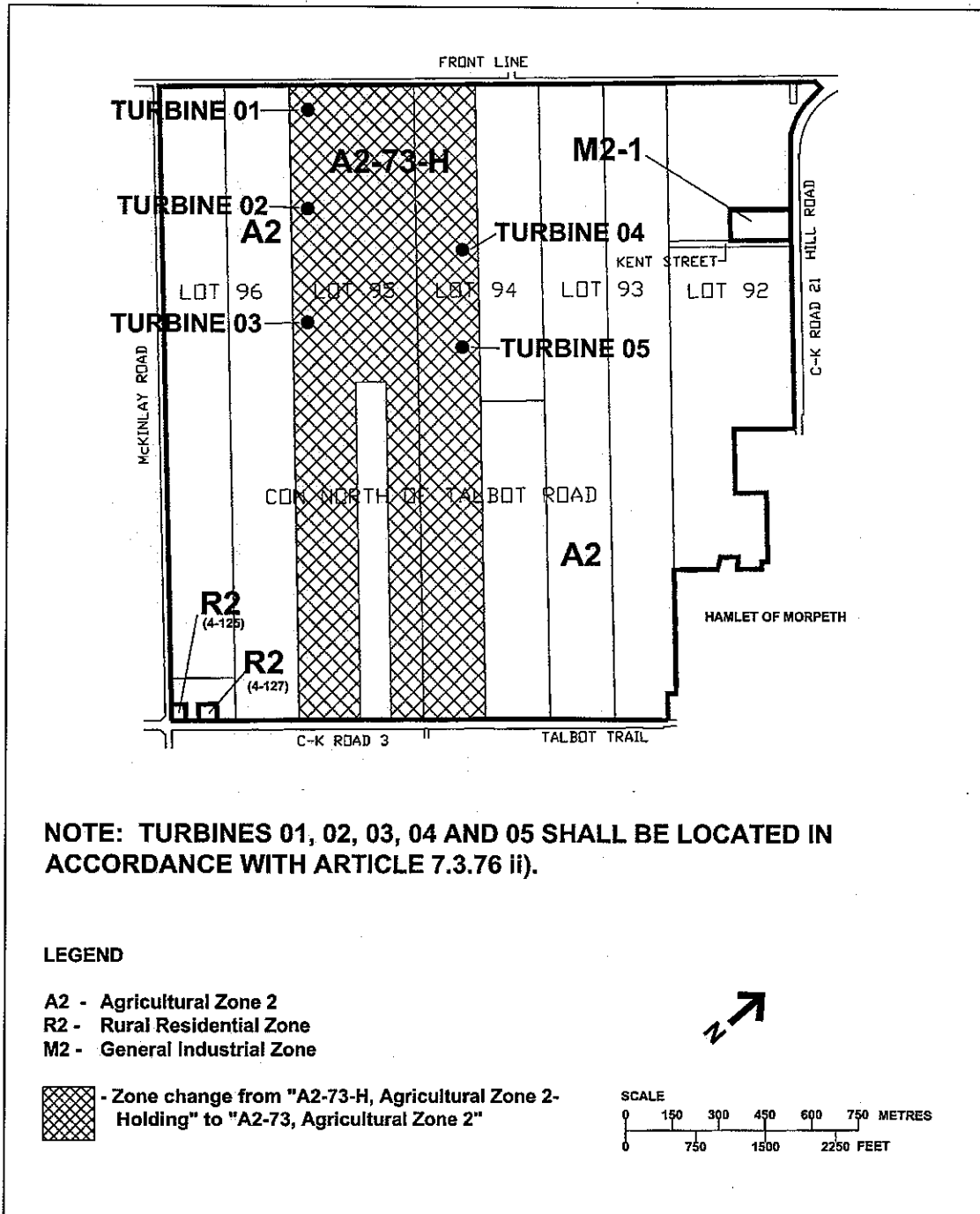
THIS By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter. P. 13, as amended.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 15th day of September, 2008.

MAYOR – Randy R. Hope

CLERK - Elinor Mifflin

THIS IS SCHEDULE "A" TO BY-LAW NO. _____ OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT PASSED ON THE 15TH DAY OF September, 2008.



CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. _____

A BY-LAW TO AMEND ZONING BY-LAW 5296

OF THE FORMER TOWNSHIP OF HARWICH

(Gengrowth LP1)

Hansen# - 4046

WHEREAS the land referred to herein is subject to a holding symbol under zoning By-law 5296, as amended, of the former Township of Harwich;

AND WHEREAS an application for an amendment to the zoning by-law to permit development of the said lands has been received by the Corporation;

AND WHEREAS the conditions necessary for removal of the holding symbol have been fulfilled to Council's satisfaction;

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED AS By-law No. _____ of the Corporation of the Municipality of Chatham-Kent:

1. That Map No. 32 to Schedule "A" (Zone Map) of By-law 5296, as amended, of the former Township of Harwich, be amended by removing the holding symbol "H" from the zone classification of the lands so depicted on Schedule "A" hereto annexed and forming part of this by-law, so that the said lands shall be zoned "A2.1, Agricultural" and within Defined Area 482.

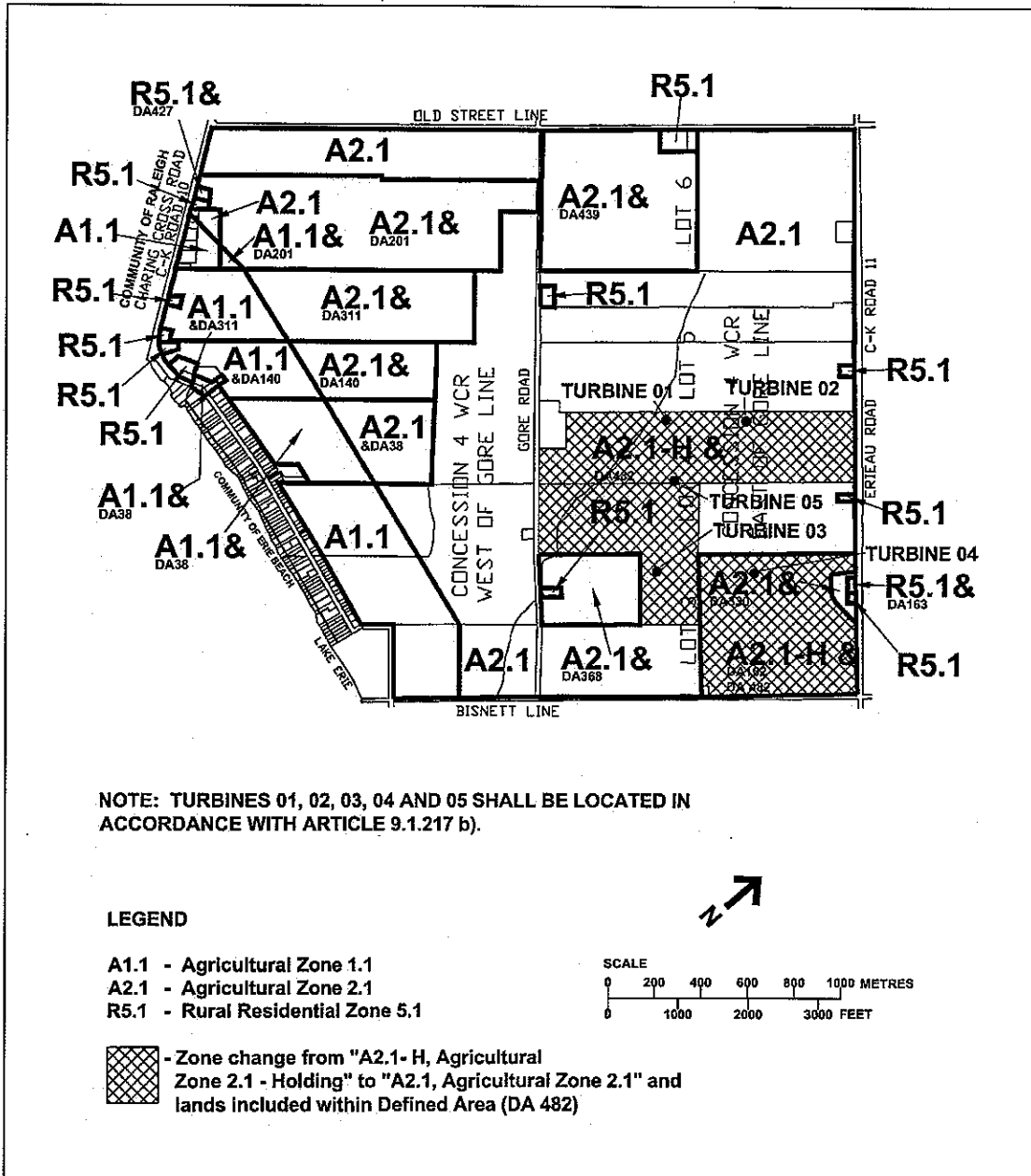
THIS By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter. P. 13, as amended.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 15th day of September, 2008.

MAYOR – Randy R. Hope

CLERK - Elinor Mifflin

THIS IS SCHEDULE "A" TO BY-LAW NO. _____ OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT PASSED ON THE 15TH DAY OF September, 2008.



CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. _____

A BY-LAW TO AMEND ZONING BY-LAW 2470-86

OF THE FORMER TOWNSHIP OF TILBURY EAST

(Gengrowth LP1)
Hansen# - 4046

WHEREAS the land referred to herein is subject to a holding symbol under zoning By-law 2470-86, as amended, of the former Township of Tilbury East;

AND WHEREAS an application for an amendment to the zoning by-law to permit development of the said lands has been received by the Corporation;

AND WHEREAS the conditions necessary for removal of the holding symbol have been fulfilled to Council's satisfaction;

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED AS By-law No. _____ of the Corporation of the Municipality of Chatham-Kent:

1. That Key Map No. 5 to Schedule "A" (Zone Map) of By-law 2470-86, as amended, of the former Township of Tilbury East, be amended by removing the holding symbol "H" from the zone classification of the lands so depicted on Schedule "A" hereto annexed and forming part of this by-law, so that the said lands shall be zoned "WF-1, Special Wind Farm Zone".

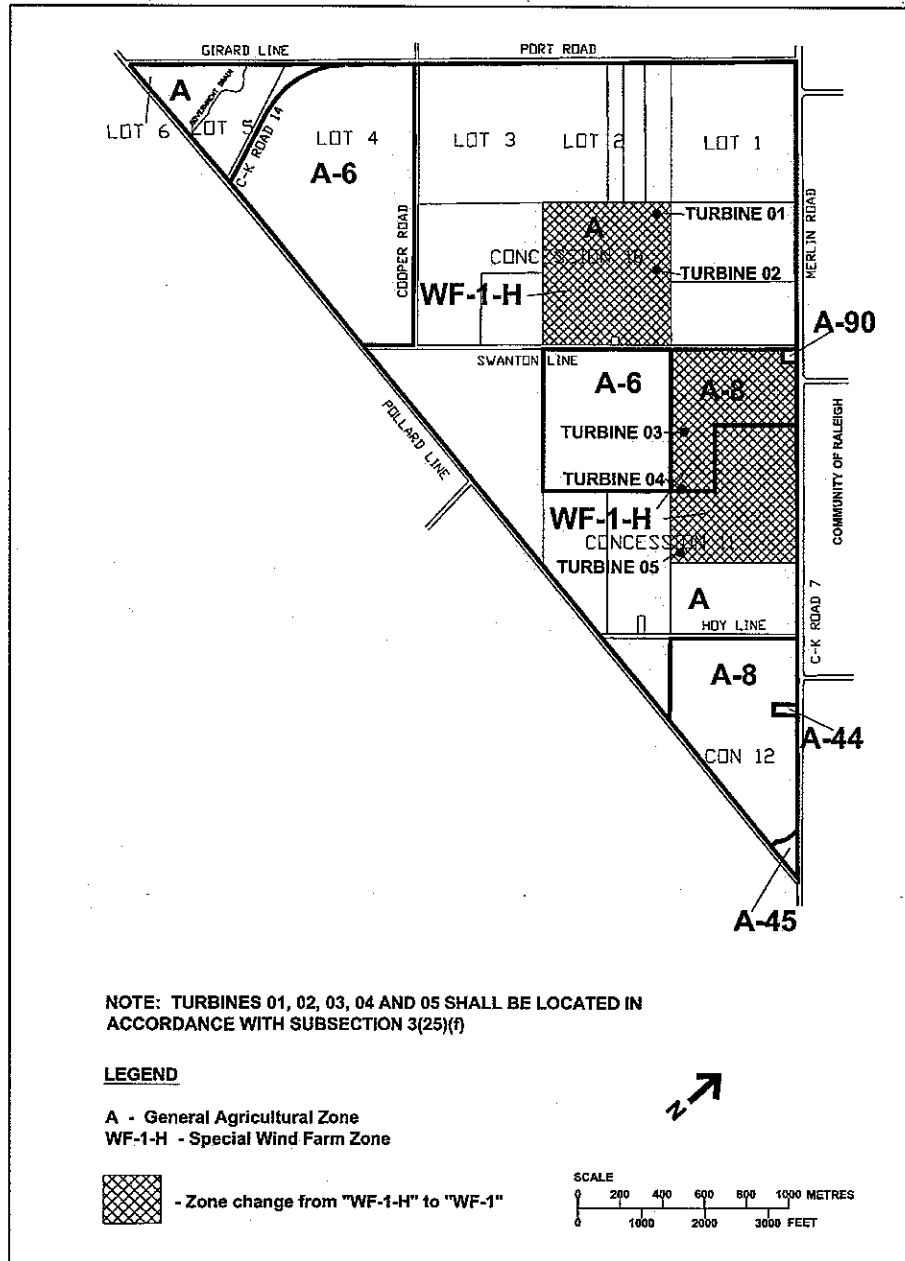
THIS By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter. P. 13, as amended.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 15th day of September, 2008.

MAYOR – Randy R. Hope

CLERK - Elinor Mifflin

THIS IS SCHEDULE "A" TO BY-LAW NO. _____ OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT PASSED ON THE 15TH DAY OF September, 2008.



CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NO. _____

A BY-LAW TO AMEND ZONING BY-LAW 90-40

OF THE FORMER TOWNSHIP OF DOVER

(Gengrowth LP1)
Hansen# - 4046

WHEREAS the land referred to herein is subject to a holding symbol under zoning By-law 90-40, as amended, of the former Township of Dover;

AND WHEREAS an application for an amendment to the zoning by-law to permit development of the said lands has been received by the Corporation;

AND WHEREAS the conditions necessary for removal of the holding symbol have been fulfilled to Council's satisfaction;

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED AS By-law No. _____ of the Corporation of the Municipality of Chatham-Kent:

1. That Schedule "A" Key Maps No. 10 and 11 (Zone Maps) of By-law 90-40, as amended, of the former Township of Dover, be amended by removing the holding symbol "H" from the zone classification of the lands so depicted on Schedules "A" and "B" hereto annexed and forming part of this by-law, so that the said lands shall be zoned "A2-80, General Agriculture".

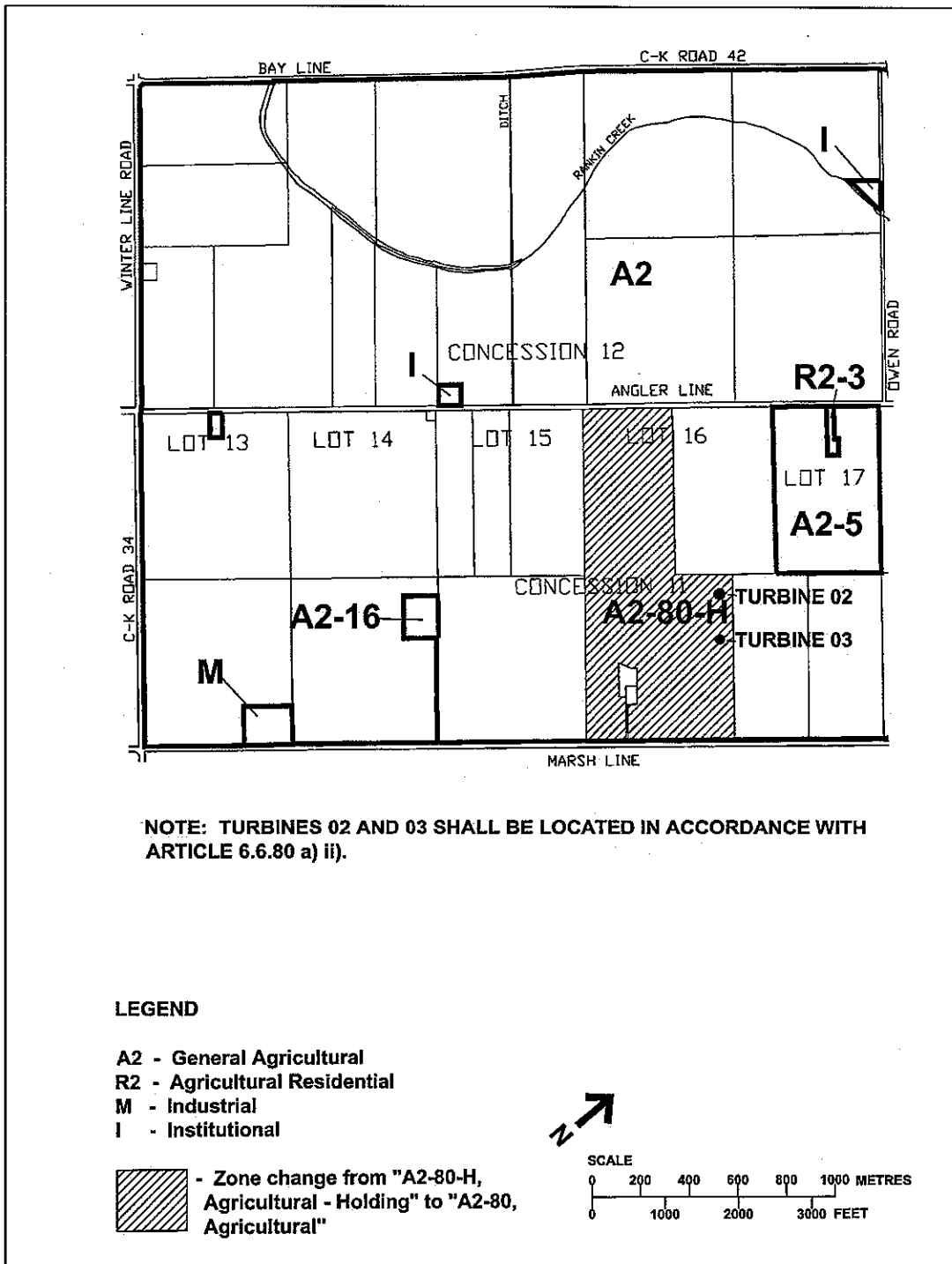
THIS By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter. P. 13, as amended.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED this 15th day of September, 2008.

MAYOR – Randy R. Hope

CLERK - Elinor Mifflin


THIS IS SCHEDULE "A" TO BY-LAW NO. _____ OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT PASSED ON THE 15TH DAY OF September, 2008.

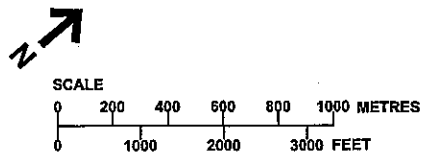


NOTE: TURBINES 02 AND 03 SHALL BE LOCATED IN ACCORDANCE WITH ARTICLE 6.6.80 a) ii).

LEGEND

- A2 - General Agricultural
- R2 - Agricultural Residential
- M - Industrial
- I - Institutional

 - Zone change from "A2-80-H, Agricultural - Holding" to "A2-80, Agricultural"



THIS IS THIS IS SCHEDULE "B" TO BY-LAW NO. _____ OF THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT PASSED ON THE 15TH DAY OF September, 2008.

