

ZEIGER, TIGGES & LITTLE LLP

TELEPHONE: (614) 365-9900

FACSIMILE: (614) 365-7900

ATTORNEYS AT LAW

3500 HUNTINGTON CENTER

41 SOUTH HIGH STREET

COLUMBUS, OHIO 43215

WRITER'S DIRECT NUMBER:

(614) 324-5078

June 14, 2022

Mr. John Willey  
Acting Zoning Inspector  
Woodville Board of Township Trustees

Re: Notice of Administrative Appeal Pursuant to R.C. 519.15 and Woodville  
Township Zoning Resolution

Dear Mr. Willey:

We represent OEE XXXIII LLC ("One Energy"). Enclosed please find One Energy's notice of administrative appeal to the Woodville Township Zoning Board of Appeals ("BZA") from the decision to deny One Energy's April 19, 2022, zoning permit application.

Please contact the undersigned should you have any questions.

Very truly yours,

Christopher J. Hogan

Enclosures

950847

June 14, 2022

Mr. John Willey  
Acting Zoning Inspector  
Woodville Board of Township Trustees

Re: Notice of Administrative Appeal Pursuant to R.C. 519.15 and Woodville Township Zoning Resolution

Dear Mr. Willey,

Pursuant to Section 519.15 of the Ohio Revised Code and Section 13.3-2 of the Woodville Township (the "Township") Zoning Resolution (the "Resolution"), this letter serves as OEE XXXIII LLC's ("One Energy") notice of administrative appeal to the Woodville Township Zoning Board of Appeals ("BZA") from your apparent decision to deny the April 19, 2022, zoning permitted application submitted by One Energy, as reflected in the June 3, 2022, e-mail from Sandusky County Prosecutor Beth Tischler. A copy of Ms. Tischler's June 3, 2022 e-mail, from which this appeal is taken, is attached as Exhibit A (the "Permit Denial"). The grounds for this appeal, which are summarized in more detail below, include—without limitation of One Energy's right to present additional evidence and argument at and in connection with the hearing before the BZA—the following:

1. The Permit Denial is contrary to the express language of the Resolution, which makes clear that the requested permit should have been granted;
2. The Permit Denial relies on words and phrases that do not exist in the Resolution;
3. The reasoning used in the Permit Denial is inconsistent with Ohio law;
4. The Permit Denial resulted from arbitrary and capricious administrative action;
5. The Zoning Inspector did not comply with the procedural requirements of the Resolution and/or state law in connection with the Permit Denial; and
6. Upon information and belief, the Permit Denial is inconsistent with the Township's prior interpretations/application of the language of the Resolution and/or permits granted by the Township to other applicants, and therefore, reflects disparate and unequal treatment of zoning permit applicants.

Pursuant to Section 519.15, please prepare and provide the BZA with "all the papers constituting the record upon which the action appealed from was taken." This record on appeal should include: (1) One Energy's permit application and all supporting materials; (2) all communications and/or notes of communications between One Energy and any Township official, employee, agent, or representative; (3) all non-privileged communications and/or notes of communications between and among Township officials, employees, agents, representatives, and/or any third parties regarding the Application (defined below) and/or the Permit Denial; and (4) any other documents in the Township's possession, custody, or control (including notes) regarding or relating to the Application and/or the Permit Denial.

A. Background.

One Energy is the lessee of Parcel No. 28-21-00-0024-00 (the "Property"), which is owned by Martin Marietta Magnesia Spec LLC ("Martin Marietta"). Martin Marietta has authorized this notice of administrative appeal as the owner of the Property.

Pursuant to Section 14.1-2 of the Resolution<sup>1</sup>, One Energy on April 19, 2022, submitted its application for a zoning permit to construct wind turbines (the "Project") on the Property. This application was submitted to the Woodville Township Zoning Inspector, Steve Michaelis (the "Application"). A copy of the Application is attached hereto as Exhibit B. It is One Energy's understanding that after it submitted the Application, Mr. Michaelis recused himself and you were appointed as Interim Zoning Inspector for purposes thereof.

Between April 19, 2022, and June 3, 2022, One Energy, Martin Marietta, the Woodville Board of Township Trustees ("Trustees"), you, and Ms. Tischler, engaged in several communications regarding the Application and the correlating approval process. Copies of e-mail communications between and among these parties are attached as Exhibit C. Throughout this process, One Energy consistently made itself available to answer any questions and promptly provided additional information upon request. One Energy also made clear its position that the turbines at the heart of the Project constitute "structures" that are expressly permitted, under the Resolution, in a "M-2" Heavy Industrial District.

On June 3, 2022, Ms. Tischler—copying you and referencing your discussions—sent the Permit Denial e-mail to One Energy and Martin Marietta.<sup>2</sup> In her e-mail, Ms. Tischler indicated that the Application was being denied because, in your views, the proposed turbines are not "structures," and do not satisfy the requirements applicable to "small wind energy systems"—a separate category defined in the Resolution. Rather, the project is more properly defined as a "wind system" even though the term "wind system" does not even exist in the Resolution and the first time such "system" or standard has been referenced to One Energy is in the June 3 email. [See Ex. A.]

#### **B. Overview Of Legal Errors That Require Reversal Of The Permit Denial.**

At bottom, the Permit Denial was inconsistent with the express language of the Resolution. The turbines One Energy proposes to construct via the Application fit squarely within the definition of "structure" set forth in Section 3.77 of the Resolution.

Specifically, the Resolution defines structure as: "a combination of materials forming a construction that is safe and stable and includes, among other things, stadiums, platforms, observation towers, etc." [Id.]

Put simply, the proposed turbines used for the Project constitute a "combination of materials forming a construction that is safe and stable" which is the basis for the definition. They are built on an engineered foundation consisting of structural steel and concrete. The turbines consist of steel towers and structural castings, as well as fiberglass shells and formed composite material. They are built under the direction of multiple professional engineers and are certified to multiple international safety standards including IEC 61400. Furthermore, the turbines are constructed using prudent wind installation methods, quality checks, and safety standards available, meeting or exceeding the industry standard. All of this, of course, is set forth in more detail in One Energy's internal zoning memorandum ("Zoning Memorandum") that was submitted, to you and which should be included as part of the record on appeal. An additional copy of the Zoning Memorandum, which is adopted and incorporated herein, is attached as Exhibit D.

Nonetheless, you contend that the turbines do not qualify as "structures," but instead constitute a "wind system" that is not permissible under the Resolution. [Exh. A.] But, "wind system" is not a defined term in the Resolution and, in fact, does not even exist as a phrase in the Resolution. Your apparent reliance on this distinctly non-existent category in denying the Application is nothing more than the proverbial attempt to fit a square peg into a round hole. That is particularly unnecessary where, as here, the Resolution already includes a square hole into which the proposed turbines clearly fit: the definition of "structure."

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<sup>1</sup> Woodville Township Sandusky County Zoning Resolution

<sup>2</sup> One Energy reserves all rights in the event that the Board of Zoning Appeals or Court of Common Pleas determines the email of Ms. Tischler did not constitute a final appealable decision.

Additionally, lest there be any confusion, the Project also constitutes a permitted use in an M-2 Heavy Industrial District. The Project constitutes a permitted "other manufacturing use" in a "M-2" Heavy Industrial District, as described in Section 4.8-1 of the Resolution. Section 3.50 of the Resolution defines "manufacturing" as "the making of *anything* by agency or process."<sup>3</sup> The Project will clearly, through a mechanical process, be making electricity that will directly power Martin Marietta's heavy industrial facility.

Moreover, the Project is similar to the other permitted uses in Section 4.8-1 of the Resolution because the wind turbines will provide an essential service (generation of electricity) that is integral to the facility's ability to operate. Further, the Project will be onsite of a facility that currently supports a mining operation. Essentially all of the electricity produced by the wind turbines will be consumed, in the process of mining and manufacturing, by the industrial uses at the facility. Finally, the wind turbines will not create conditions that rise to the level of being objectionable because they do not emit noxious odors, create nuisance level noise, or produce hazardous materials as some of the permitted uses listed do. [See Resolution § 4.8-1.]

Finally, as an "other manufacturing use," the Project clearly has performance characteristics similar (or much better than) other permitted uses that are enumerated in the M-1 and M-2 districts.

- Unlike fat rendering, a permitted use, the Project emits no odors.
- Unlike turpentine manufacturing, a permitted use, the Project emits no fumes or gases.
- Unlike cinder block manufacturing, a permitted use, the Project emits no dust.
- Unlike asphalt mixing plants, a permitted use, the Project emits no smoke.
- Unlike a stone mill, a permitted use, the Project produces comparatively little noise.
- Unlike metal stamping, a permitted use, the Project produces no noticeable vibrations.

Given the foregoing, One Energy respectfully requests, following the hearing required under the Resolution and Section 519.15, that the BZA find that the Permit Denial was improper and issue One Energy a permit in accordance with Section 519.15 or remand back to the Zoning Inspector with specific instructions to issue the permit to One Energy in accordance with Section 14 of the Resolution. In the meantime, if you have any questions or need anything further from us on this matter, please let us know. One Energy will simultaneously send copies of this notice to the Woodville Township Board of Trustees and BZA. One Energy reserves all rights.

Respectfully Submitted,

*James Dunn*

James Dunn

Senior Counsel

cc: Woodville Township Board of Township Trustees  
Woodville Township Board of Zoning Appeals

Consent and acknowledgement of landowner:

Martin Marietta Magnesia Spec LLC

By: 

Wade Weaver, General Manager

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<sup>3</sup> See Resolution Definition.

EXHIBIT A



Katie Treadway <ktreadway@oneenergyllc.com>

**RE: One Energy Permit Application Follow Up**

1 message

Tischler, Beth <tischler\_beth@co.sandusky.oh.us>

Fri, Jun 3, 2022 at 2:15 PM

To: Jessica Grosso <jgrosso@oneenergyllc.com>

Cc: Katie Treadway <ktreadway@oneenergyllc.com>, James Dunn <jdunn@oneenergyllc.com>, Jereme Kent <jeremekent@oneenergyllc.com>, Wade Weaver <Wade.Weaver@martinmarietta.com>, Paul Runion <paparunion@gmail.com>, "Willey, John" <Willey\_John@co.sandusky.oh.us>, Lori Kepus <woodvilletwp@gmail.com>

Good afternoon-

Mr. John Wiley, acting Zoning officer for Woodville Township, met to discuss the pending zoning application requesting that the applicant be permitted to construct three new "structures" on the property performing an, "other manufacturing use."

Mr. Wiley and I are in agreement that the application should be denied. The planned project is to construct a wind energy system that is larger than permitted under the current zoning ordinances.

The project is not, in our opinion a structure as defined in the ordinance but is more properly defined as a wind system.

At this point your client would have the ability to appeal this determination under the zoning code.

Sincerely,

Beth A. Tischler

Prosecutor

From: Jessica Grosso [mailto:jgrosso@oneenergyllc.com]

Sent: Thursday, June 2, 2022 4:23 PM

To: Tischler, Beth <tischler\_beth@co.sandusky.oh.us>

Cc: Katie Treadway <ktreadway@oneenergyllc.com>; James Dunn <jdunn@oneenergyllc.com>; Jereme Kent <jeremekent@oneenergyllc.com>; Wade Weaver <Wade.Weaver@martinmarietta.com>; Paul Runion <paparunion@gmail.com>

Subject: One Energy Permit Application Follow Up

This message has originated from an External Source. Please use proper judgment and caution when opening

attachments, clicking links, or responding to this email.

Good Afternoon,

I hope this email finds you well. Last night I attended the township trustee meeting with Jereme Kent (from One Energy) and Wade Weaver (from Martin Marietta). We were hoping to get an update on the permit application for Martin Marietta at the meeting, but the trustees mentioned that you are still reviewing the application.

We understand that you are very busy, but do you have an idea of when you expect to have your review complete? A timely processing of this application is important to both us and Martin Marietta so the project timeline does not slip further. We would be happy to make our internal counsel (who is cc'ed) available for the call to talk through the analysis. We are also happy to pull in our outside legal team to talk through things as well.

Also, we wanted to confirm that you received the package we sent to the township trustees on May 16th as it contains additional information that will be relevant to your review.

Thank you,

Jessica

**JESSICA GROSSO**

SVP, Head of Project Planning and Technology

[jgrosso@oneenergyllc.com](mailto:jgrosso@oneenergyllc.com)

[www.oneenergy.com](http://www.oneenergy.com)



Office: 877-298-5853 | Mobile: 419-890-8555

12385 Township Rd. 215 | Findlay, OH 45840

### Disclaimer

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EXHIBIT B





Wade Weaver  
General Manager

April 19, 2022

Board of Township Trustees Woodville Township, Ohio  
ATT: Mr. Steve Michaelis, Zoning Inspector  
321 East Main Street  
P.O.Box 121  
Woodville, OH 43469

Dear Mr. Michaelis:

Please let this letter serve as an official acknowledgment that Martin Marietta Magnesia Specialties LLC, as the landowner of the parcel in question, has reviewed and approved the zoning application that was filed with the Board of Township Trustees of Woodville Township, Ohio on April 18, 2022, by Applicant OEE XXXIII LLC regarding Parcel No. 28-21-00-0024-00.

Sincerely,

A handwritten signature in black ink, appearing to be 'Wade Weaver', written over a horizontal line.

Martin Marietta Magnesia Specialties LLC

# Application for Zoning Certificate

Sec. 519.16 R.C.

Woodville \_\_\_\_\_ Township Sandusky \_\_\_\_\_ County Application No. \_\_\_\_\_

To the Board of Township Trustees:

The undersigned hereby applies for a Zoning Certificate for the following use, to be issued on the basis of the representations contained herein, all of which applicant says are true:

- 1. Location of property Parcel No. 28-21-00-0024-00
- 2. Name of Land Owner Martin Marietta Magnesia Spec LLC  
Address 755 Lime Road, Woodville, Ohio 43469
- 3. Occupant OEE XXXIII LLC

4. Proposed use:

- New Construction  Business
- Remodeling  Manufacturing
- Accessory Building  Sign Board—Size
- Residence  No. of Families  Other (explain below, use additional sheet if necessary)

5. Sketch of lot, showing existing buildings and proposed construction or use for which application is made. (Fill in all dimensions and indicate North)

- a) Main road frontage \_\_\_\_\_ feet
- b) Set back from side of road right of way \_\_\_\_\_ feet
- c) Side yard clearance:  
\_\_\_\_\_ side \_\_\_\_\_ feet  
\_\_\_\_\_ side \_\_\_\_\_ feet
- d) Rear yard clearance \_\_\_\_\_ feet
- e) Depth of lot from right of way \_\_\_\_\_ feet
- f) Dimensions of building:  
Width \_\_\_\_\_ feet  
Depth \_\_\_\_\_ feet
- g) Highest point of building above the established grade \_\_\_\_\_ feet

See Attachments Below ↑  
N

6. Buildings: Use \_\_\_\_\_

Number of stories \_\_\_\_\_ Basement \_\_\_\_\_

Usable floor space designed for use as living quarters, exclusive of basements, porches, garages, breezeways, terraces, attics, or partial stories.

First floor \_\_\_\_\_ square feet                      Second floor \_\_\_\_\_ square feet

Off street parking \_\_\_\_\_ square feet

7. Remarks: Please see attachment below for additional detail.  
\_\_\_\_\_  
\_\_\_\_\_

WITNESS:

\_\_\_\_\_ OEE XXXIII LLC \_\_\_\_\_

Applicant

NOTE: This form to be filed in triplicate.

Do not write below this line

Filed with Zoning Inspector \_\_\_\_\_, 20 \_\_\_\_\_

### Zoning Certificate

Sec. 519.16 R.C.

Upon the basis of Application No. \_\_\_\_\_, the statements in which are made a part hereof, the proposed usage is \_\_\_\_\_ found to be in accordance with the Township Zoning Resolution and is hereby \_\_\_\_\_ for the \_\_\_\_\_ District.  
(approved-rejected)

\_\_\_\_\_  
Township Zoning Inspector

\_\_\_\_\_ Township \_\_\_\_\_ County

Date application received \_\_\_\_\_, 20 \_\_\_\_\_

Date application ruled on \_\_\_\_\_, 20 \_\_\_\_\_

Fee paid \$ \_\_\_\_\_

If certificate refused, reason for refusal \_\_\_\_\_  
\_\_\_\_\_

## ATTACHMENT 1

### Zoning Application – Additional Information

This is a *Wind for Industry*® project that will sit entirely on Martin Marietta's site and is designed to provide power directly to the Martin Marietta industrial facility. The project will provide a significant portion of the plant's annual energy needs. This new construction project consists of the installation of three (3) 1.5 megawatt (MW) wind turbines for a total nameplate capacity of 4.5 MW. Each wind turbine will have a hub height of 262 feet and total tip height of 405 feet. The electrical system for this project will be constructed almost entirely underground and will tie into the plant's existing electrical system.

The project siting is not governed by the Ohio Power Siting Board, since it is less than 20 MW in nameplate capacity.

The project is governed by local zoning under the authority of Woodville Township. Under the Woodville Township, Sandusky County Zoning Resolution, the current zoning of the land selected for the project is "M-2" – Heavy Industrial District.

The Resolution provides regulations for small wind turbines in section 7.5, but those regulations are tailored to smaller turbines that are no more than 140 feet in height and have a rated capacity of up to 100 kW. This project uses larger wind turbines and will need to be zoned based on other applicable parts of the Resolution.

Under the Resolution, each wind turbine for this project should be considered a "structure" that is performing a permitted use in the M-2 District. More specifically, the wind turbines are performing an "other manufacturing use" with similar performance characteristics to the existing uses of the property and other permitted uses under the regulations outlined for the M-2 District.

*3.77 Structure: A combination of materials forming a construction that is safe and stable and includes, among other things, stadiums, gospel and circus tents, reviewing stands, platforms, staging, observation towers, trestles, piers, wharves, sheds, storage bins, walls, fences, and display signs. The word "structure" shall be construed as if followed by the words "or part thereof."*

The property and facility support an industrial mining and processing operation. As an "other manufacturing use," the wind turbines will be integral to the existing uses of the property and facility. The wind turbines will produce electric energy directly used for manufacturing at the facility. The wind turbines will not create objectional conditions as they do not: emit noxious odors, create nuisance levels of noise, create dust, or produce hazardous materials. The wind turbines are more than 2,700 feet from the closest residential property line and are 2,775 feet from the closest residence.

There is no height restriction in the M-2 District. The project will satisfy all other applicable setbacks (including the yard setbacks) outlined in the Resolution (*See* Attachment 3 "Setbacks"). The wind turbines, including the extension of the blades, are set back 53 feet from closest adjacent property line that is not owned by Martin Marietta.

ATTACHMENT 2

Zoning Application – Site Layout

**PROJECT**  
Martin Mariet a Wind Project

Woodville, OH



ONE ENERGY INC  
12385 Township Road 215  
Findlay, Ohio 45840  
877-298-5953  
www.oneenergy.com

**KEY**

- ⊙ Center of Wind Turbine
- Non-MMM Owned Parcels
- ▭ Project Parcel
- ◻ MMM Owned Parcels

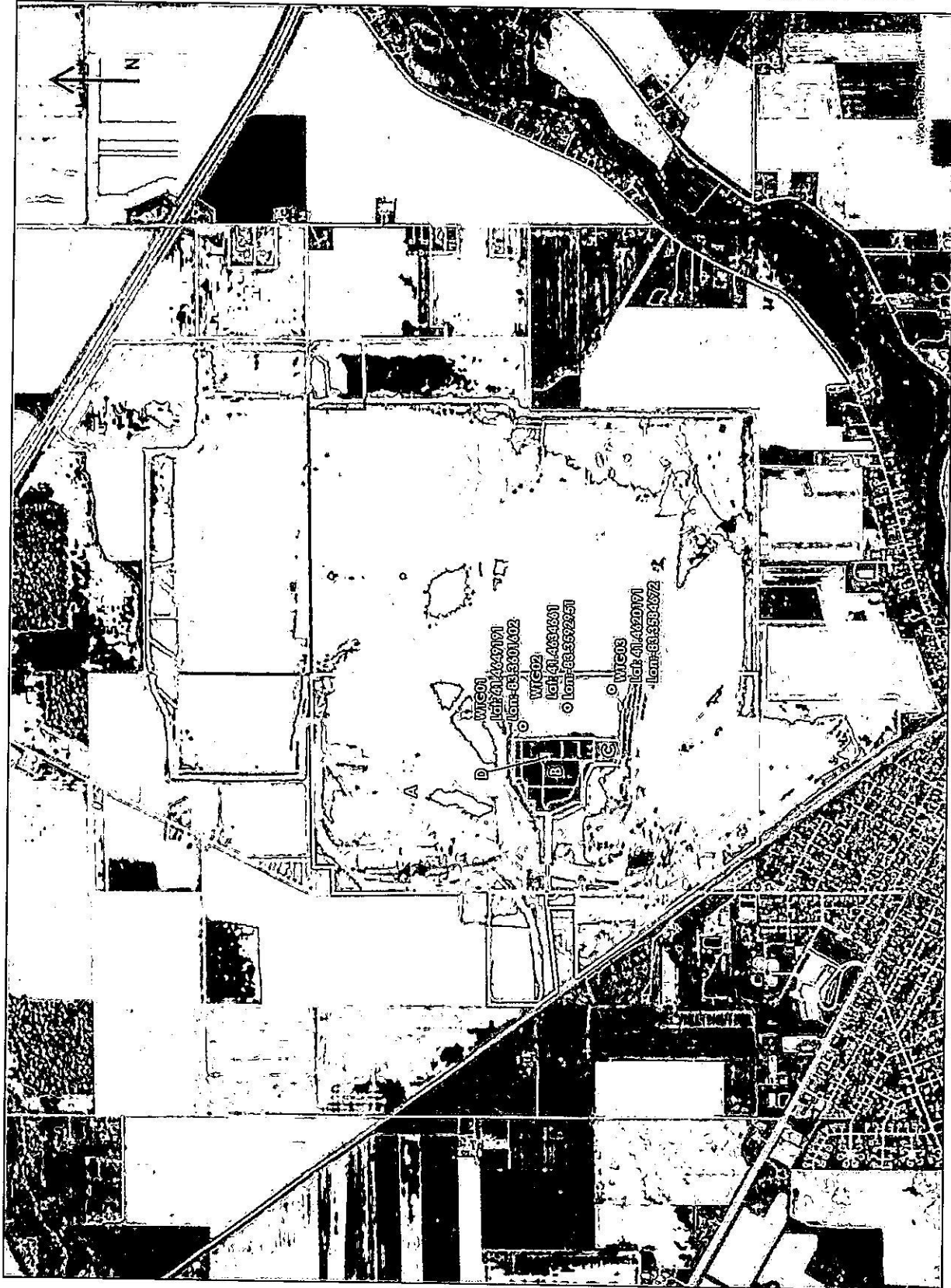
**PARCEL INFORMATION**

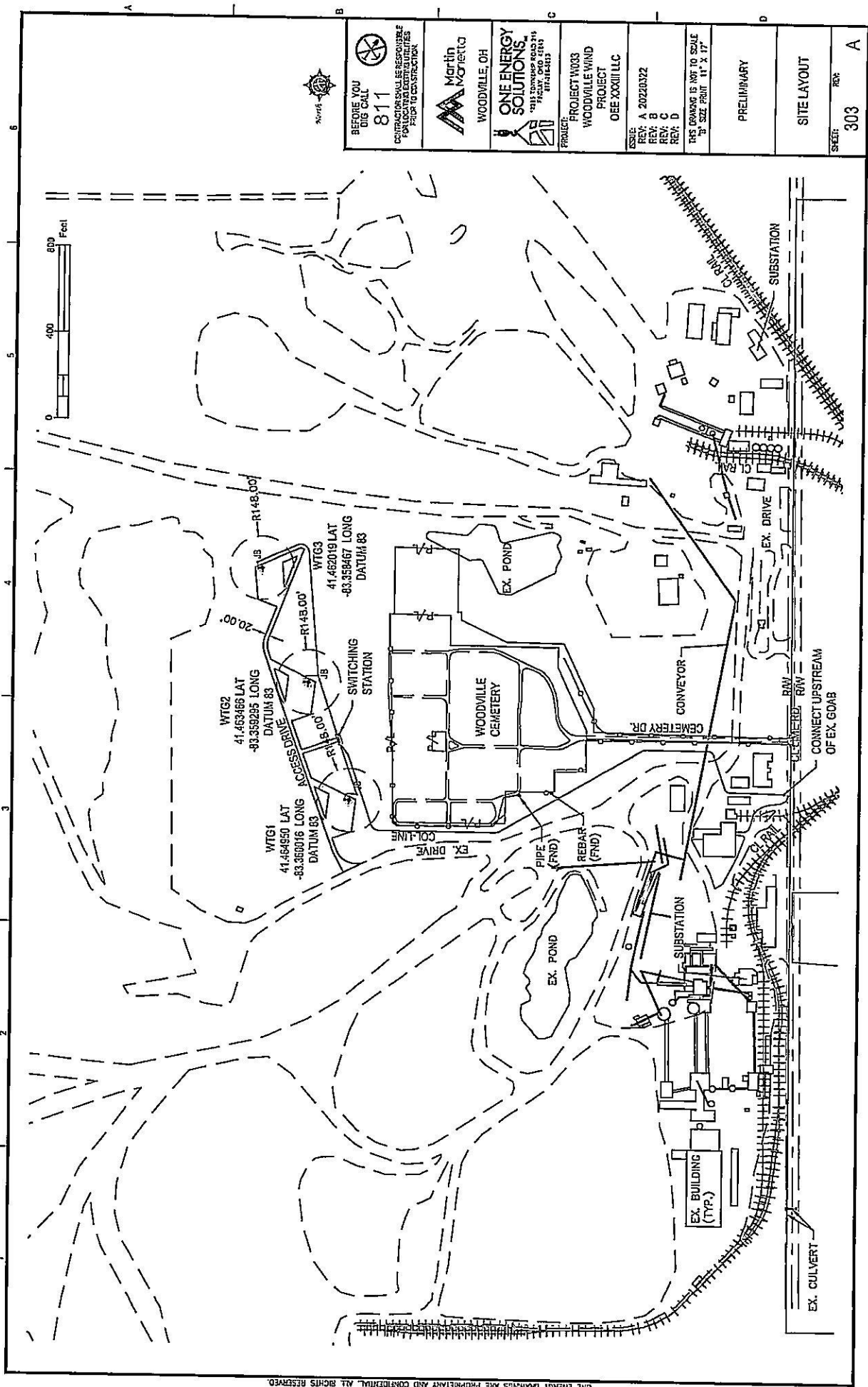
- A 28-21-00-0024-00  
Martin Mariet a Magnesia  
333.94 A ctes
- B 28-21-00-0045-00  
Woodville Township Cemetery  
16.47 A ctes
- C 28-21-00-0040-00  
Township of Woodville  
4.07 A ctes
- D 28-21-00-0041-00  
Woodville Memorial A Association  
3.00 A ctes

**SHEET DETAILS**  
Date: 2/22/2024  
Status: Project Due Diligence  
Description: 3 x Goldwind  
87/1ECO 1.5 MW

**HISTORY**

Page Rev

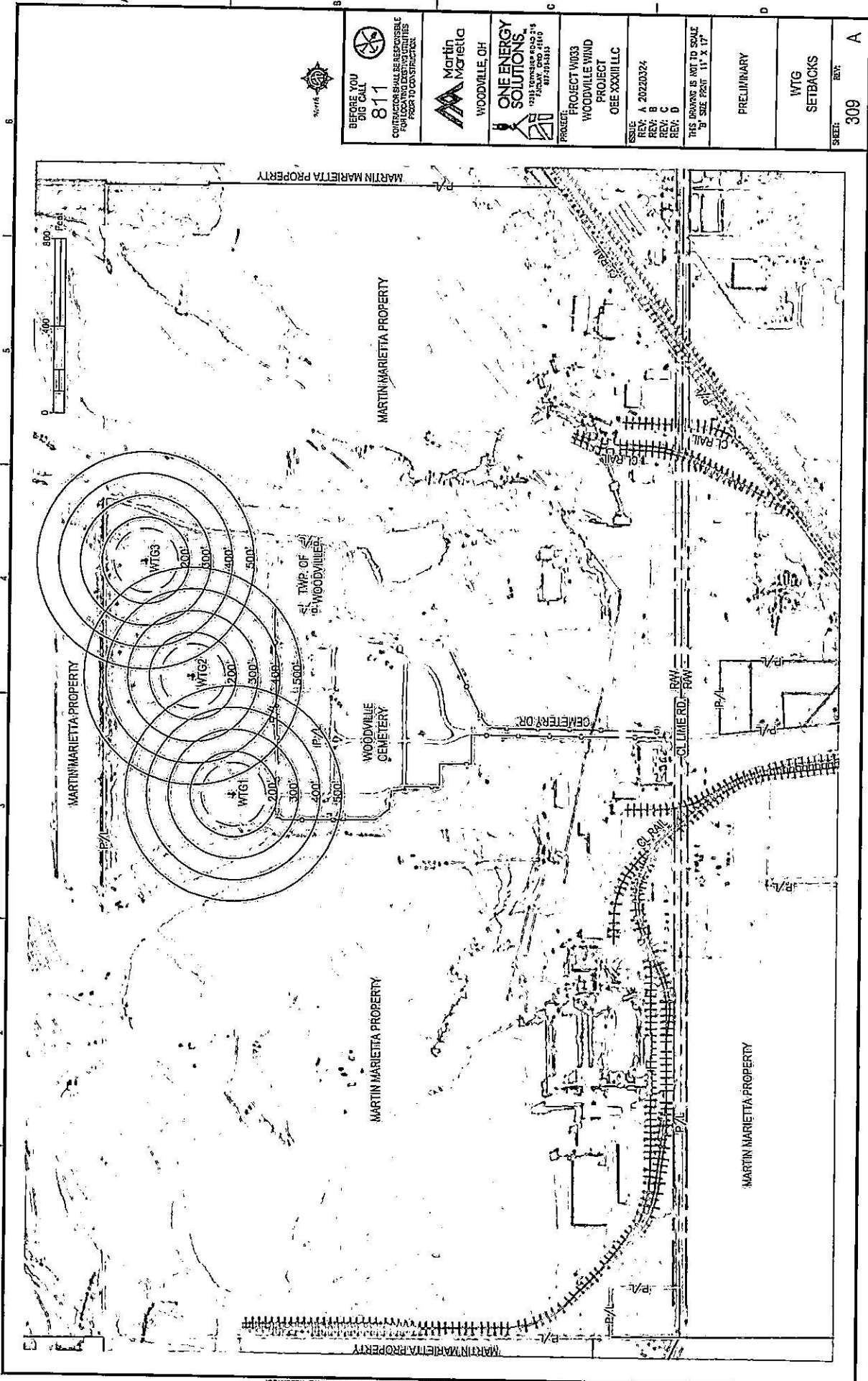




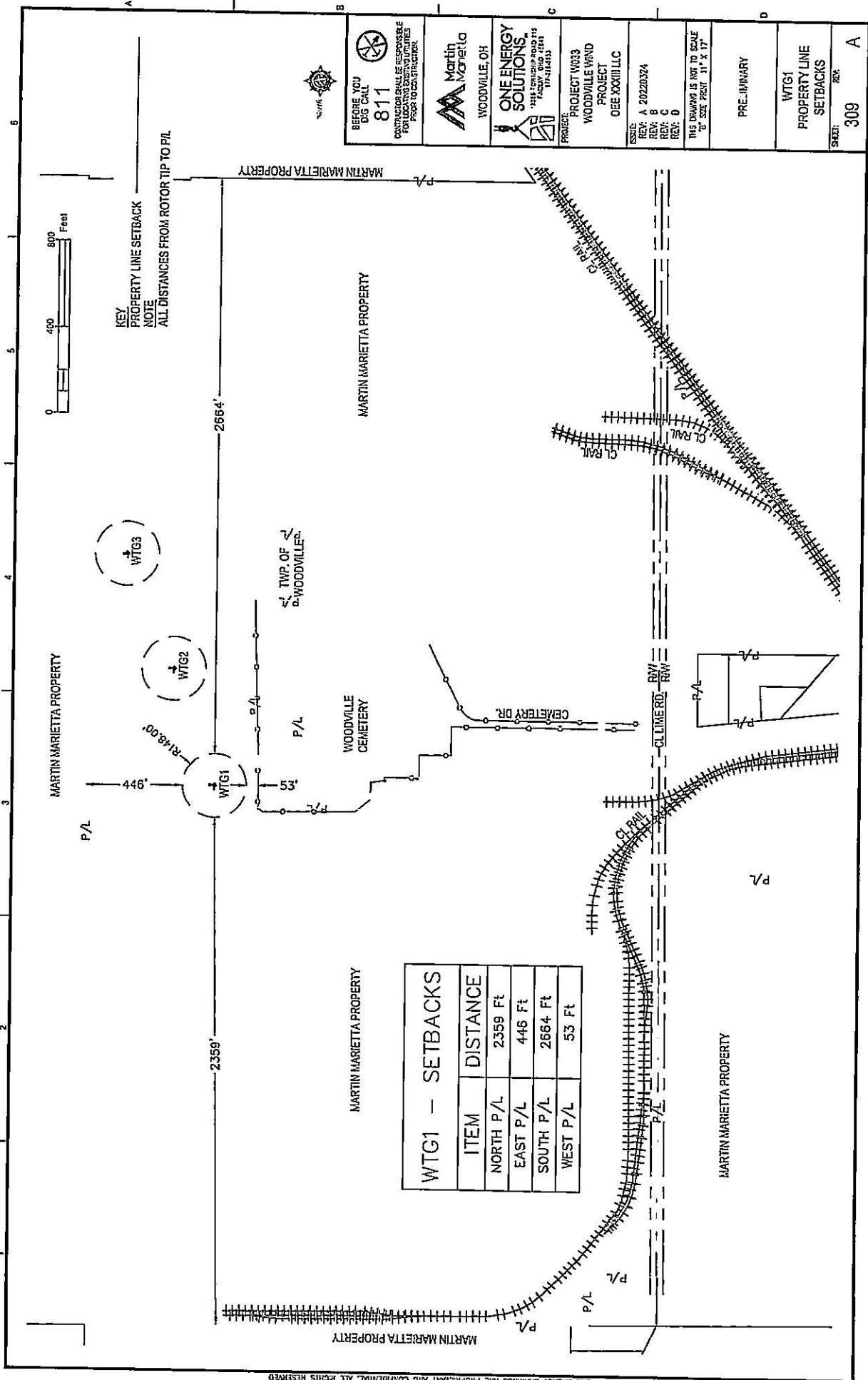
		BEFORE YOU DIG CALL <b>811</b>
		CONTACT LOCAL RESOURCES TO IDENTIFY ALL UTILITIES AND MARK THEM FOR CONSTRUCTION PRIOR TO CONSTRUCTION
	WOODVILLE, OH	<b>ONE ENERGY SOLUTIONS</b> <small>1411 TORRENCE ROAD, SUITE 100          WOODVILLE, OH 45697          741-244-1111</small>
PROJECT:	PROJECT W033 WOODVILLE WIND	PROJECT:
ISSUE:	REV: A 20220322 REV: B REV: C REV: D	PROJECT: OEE XXXIII LLC
THIS DRAWING IS NOT TO SCALE 3" SIZE PRINT 11" X 17"		PRELIMINARY
SITE LAYOUT		SHEET: <b>303</b>
		REV: A

ATTACHMENT 3  
Zoning Application – Setbacks





		BEFORE YOU DIG CALL 811
		CONTRACTOR IS RESPONSIBLE FOR VERIFYING UTILITIES PRIOR TO CONSTRUCTION
	WOODVILLE, OH	
	PROJECT: PROJECT W033 WOODVILLE WIND PROJECT PROJECT OEE XXXIII LLC	
	ISSUE: REV: A 20220324 REV: B REV: C REV: D	
	THIS DRAWING IS NOT TO SCALE SEE PAGE 11 & 17	
	PRELIMINARY	
	WTG SETBACKS	
	SHEET: 309	REV: A



WTG1 - SETBACKS	
ITEM	DISTANCE
NORTH P/L	2359 Ft
EAST P/L	446 Ft
SOUTH P/L	2664 Ft
WEST P/L	53 Ft

BEFORE YOU DIG CALL 811  
 CONTRACTOR IS RESPONSIBLE FOR LOCATING UTILITIES PRIOR TO CONSTRUCTION.

**Martin Marietta**  
 WOODVILLE, OH

**ONE ENERGY SOLUTIONS**  
 11555 E. HIGHWAY 100, SUITE 100  
 WOODVILLE, OH 45698

PROJECT: PROJECT W033  
 WOODVILLE WIND PROJECT  
 OEE XXXIII LLC

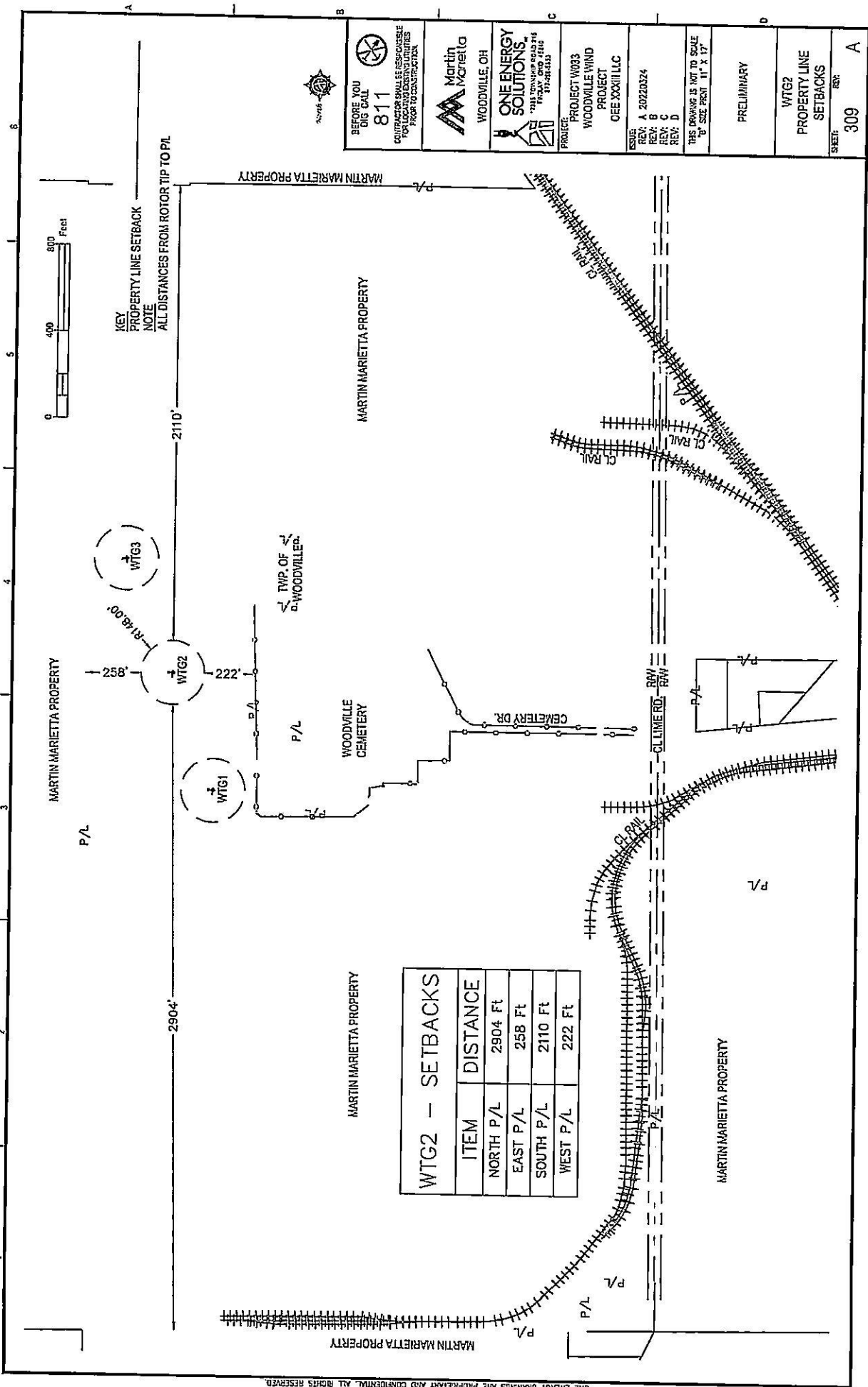
ISSUE: REV: A 20220324  
 REV: B  
 REV: C  
 REV: D

THIS DRAWING IS NOT TO SCALE  
 1" = 40' FEET 11" X 17"

PRELIMINARY

WTG1  
 PROPERTY LINE  
 SETBACKS

SHEET: 309  
 REV: A

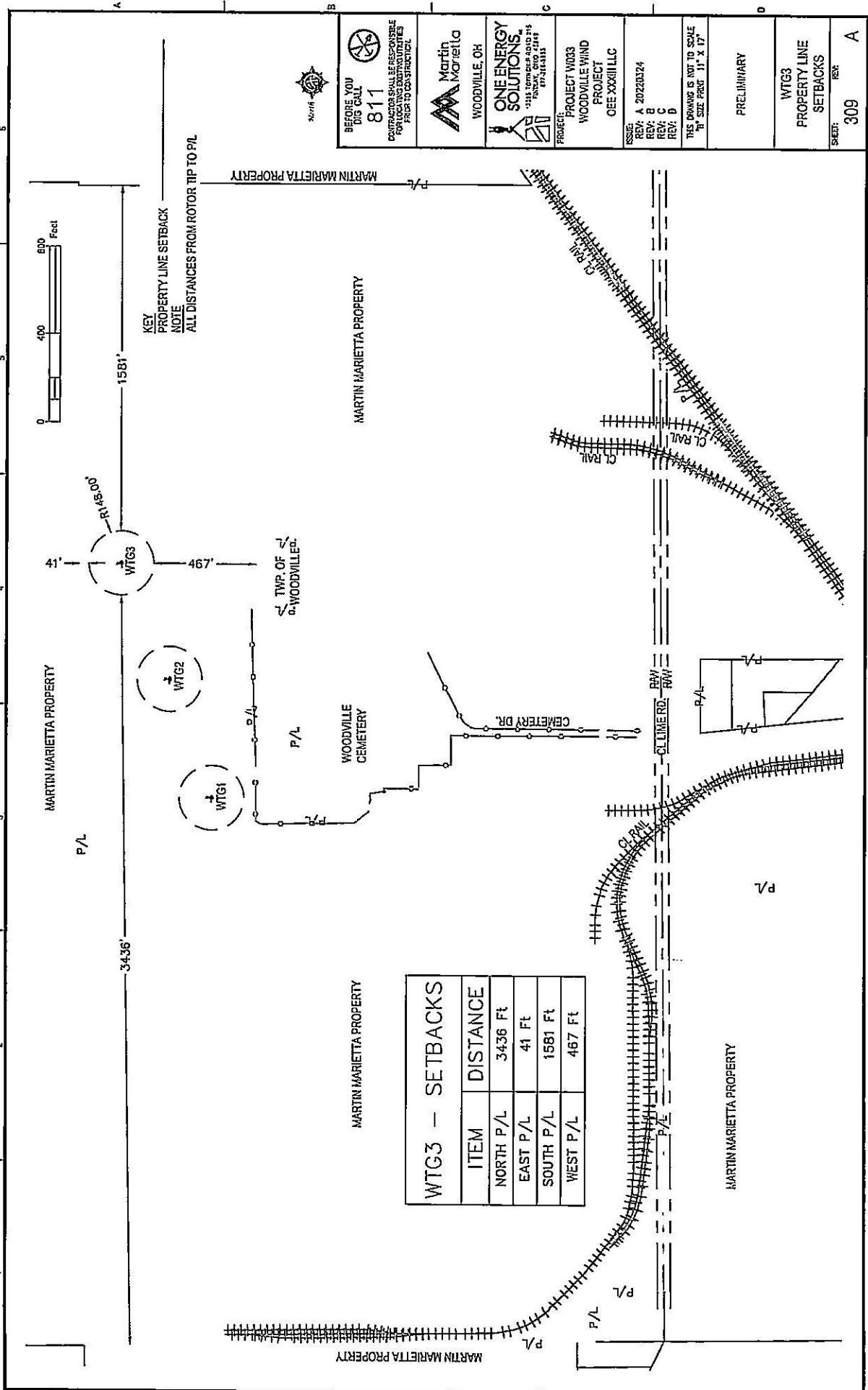


WTG2 - SETBACKS	
ITEM	DISTANCE
NORTH P/L	2904 Ft
EAST P/L	258 Ft
SOUTH P/L	2110 Ft
WEST P/L	222 Ft

BEFORE YOU DIG CALL 811
   
 CONTACT THE UTILITY SERVICE PROVIDERS PRIOR TO CONSTRUCTION
   

 Martin Marietta
   
 WOODVILLE, OH
   

 ONE ENERGY SOLUTIONS
   
 WOODVILLE WIND PROJECT
   
 OEE XXXIII LLC
   
 PROJECT: W083
   
 ISSUE: A 20220324
   
 REV: B
   
 REV: C
   
 REV: D
   
 THIS DRAWING IS NOT TO SCALE
   
 1" = 80' (SEE REV. 11" X 17")
   
 PRELIMINARY
   
 WTG2 PROPERTY LINE SETBACKS
   
 SHEET: 309 REV: A



WTG3 - SETBACKS	
ITEM	DISTANCE
NORTH P/L	3436 Ft
EAST P/L	41 Ft
SOUTH P/L	1581 Ft
WEST P/L	467 Ft

**BEFORE YOU DIG CALL 811**  
 PROPERTY SHALL BE RESPONSIBLE FOR LOCATING UTILITIES PRIOR TO CONSTRUCTION.

**Martin Marietta**  
 WOODVILLE, OH

**ONE ENERGY SOLUTIONS**  
 11111 TORRENS ROAD, SUITE 100  
 WOODVILLE, OH 43084

PROJECT: PROJECT W0033  
 PROJECT: WOODVILLE WIND  
 PROJECT: OEE XXXIII LLC

ISSUE: A 20220324  
 REV: B  
 REV: C  
 REV: D

THIS DRAWING IS NOT TO SCALE  
 1" = 100' PER 11" X 17"

PRELIMINARY

WTG3  
 PROPERTY LINE  
 SETBACKS

SHEET: 309  
 REV: A

EXHIBIT C



James Dunn &lt;jdunn@oneenergyllc.com&gt;

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## Zoning Permit Application

---

Jessica Grosso &lt;jgrosso@oneenergyllc.com&gt;

Tue, Apr 19, 2022 at 1:58 PM

To: woodvilletownshipzoning@yahoo.com

Cc: James Dunn &lt;jdunn@oneenergyllc.com&gt;, Jereme Kent &lt;jeremekent@oneenergyllc.com&gt;, Wade Weaver &lt;Wade.Weaver@martinmarietta.com&gt;

Good Afternoon Mr. Michaelis,

It was a pleasure meeting you yesterday. Thank you for taking the time to come out to the project announcement.

Please accept this email and the attached documents as OEE XXXIII LLC's (One Energy) Zoning Permit Application for a project in Woodville Township. The attached documents include the application form with applicable information and drawings, as well as the deed for the parcel. We are happy to send in hard copies of these documents if needed.

It is our understanding the permit fee is \$150. What is the best way to send this in? It is also our understanding that the application process we identified under the Resolution does not require an official meeting by the Township, is that in line with your understanding? If it is, what timeline would you expect for approval?

Application contact phone number: 419-890-8555

Please let me know if you have any questions regarding this application.

Thank you for your time.

All the best,  
Jessica

### JESSICA GROSSO

SVP, Head of Project Planning and Technology

jgrosso@oneenergyllc.com

www.oneenergy.com





Office: 877-298-5853 | Mobile: 419-890-8555

12385 Township Rd. 215 | Findlay, OH 45840

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#### 2 attachments

 MMM\_Zoning App\_20220419\_AS FILED\_Ex.pdf  
5442K

 MMC to MM Mag Specialties, Inc., DEED, 1993-08-19, Quitclaim, 977.985 ac, Book 381 Page 338.pdf  
5911K



James Dunn <jdunn@oneenergyllc.com>

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## Fwd: One Energy Permit Application Follow Up

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Jessica Grosso <jgrosso@oneenergyllc.com>  
To: James Dunn <jdunn@oneenergyllc.com>

Wed, Jun 8, 2022 at 2:50 PM

----- Forwarded message -----

From: Tischler, Beth <tischler\_beth@co.sandusky.oh.us>  
Date: Tue, May 10, 2022 at 9:09 AM  
Subject: RE: One Energy Permit Application Follow Up  
To: Jessica Grosso <jgrosso@oneenergyllc.com>  
CC: Willey, John <Willey\_John@co.sandusky.oh.us>

Is your office local? I would like to meet and discuss the project to make sure that there is nothing that is missing from the application versus what we need to know. John Wiley is handling the permit process since the designated individual has a conflict.

It was relayed that this has been in the work for some time, however, this is the first my office has been looped in.

Would you be able to send you availability in the next week to two weeks to meet?

Thanks!

Beth

From: Jessica Grosso [mailto:jgrosso@oneenergyllc.com]  
Sent: Tuesday, May 10, 2022 8:54 AM  
To: Tischler, Beth <tischler\_beth@co.sandusky.oh.us>  
Subject: Re: One Energy Permit Application Follow Up

This message has originated from an External Source. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

---

Good morning Beth,

6/8/22, 2:56 PM

One Energy Enterprises LLC Mail - Fwd: One Energy Permit Application Follow Up

I wanted to follow up and see if you had an approximate timeline for the review of our application? Is there anything we can do to help?

Thank you for your time,

Jessica

**JESSICA GROSSO**

SVP, Head of Project Planning and Technology

Mobile: 419-890-8555

[jgrosso@oneenergyllc.com](mailto:jgrosso@oneenergyllc.com)



On Wed, May 4, 2022 at 10:45 AM Tischler, Beth <[tischler\\_beth@co.sandusky.oh.us](mailto:tischler_beth@co.sandusky.oh.us)> wrote:

Thanks, I am working on catching up and reviewing the application.

Sent from my Verizon, Samsung Galaxy smartphone  
Get Outlook for Android

---

**From:** Jessica Grosso <[jgrosso@oneenergyllc.com](mailto:jgrosso@oneenergyllc.com)>  
**Sent:** Wednesday, May 4, 2022 10:42:42 AM  
**To:** Tischler, Beth <[tischler\\_beth@co.sandusky.oh.us](mailto:tischler_beth@co.sandusky.oh.us)>  
**Subject:** Re: One Energy Permit Application Follow Up

This message has originated from an External Source. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

---

Good morning Beth,

I just wanted to reach out to see if you had any questions regarding our permit application? Happy to schedule a call if that would be helpful.

Thank you!

Jessica

**JESSICA GROSSO**



6/8/22, 2:56 PM

One Energy Enterprises LLC Mail - Fwd: One Energy Permit Application Follow Up

SVP, Head of Project Planning and Technology

Mobile: 419-890-8555

jgrosso@oneenergyllc.com



On Wed, Apr 27, 2022 at 3:55 PM Jessica Grosso <jgrosso@oneenergyllc.com> wrote:

Sounds good. Thank you!

**JESSICA GROSSO**

SVP, Head of Project Planning and Technology

Mobile: 419-890-8555

jgrosso@oneenergyllc.com



On Wed, Apr 27, 2022 at 3:53 PM Tischler, Beth <tischler\_beth@co.sandusky.oh.us> wrote:

Thanks, I am at a conference through Friday. I will be in touch next week.

Sent from my Verizon, Samsung Galaxy smartphone  
Get Outlook for Android

---

**From:** Jessica Grosso <jgrosso@oneenergyllc.com>  
**Sent:** Wednesday, April 27, 2022 3:51:57 PM  
**To:** tischler\_beth@co.sandusky.oh.us <tischler\_beth@co.sandusky.oh.us>  
**Subject:** One Energy Permit Application Follow Up

This message has originated from an External Source. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

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Good Afternoon Ms. Tischler,

I'm Jessica Grosso with One Energy. I am the one that submitted the permit application for the project at the Martin Marietta facility. I just wanted to reach out to make sure you had my contact information in case you had

any questions regarding the application. I also wanted to share with you the one page project fact sheet that we passed out at the Stakeholder meeting last week.

If you have any questions or would like to talk further about the application, please don't hesitate to reach out!

All the best,

Jessica

**JESSICA GROSSO**

SVP, Head of Project Planning and Technology

[jgrosso@oneenergyllc.com](mailto:jgrosso@oneenergyllc.com)

[www.oneenergy.com](http://www.oneenergy.com)



Office: 877-298-5853 | Mobile: 419-890-8555

12385 Township Rd. 215 | Findlay, OH 45840

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**Disclaimer**

6/8/22, 2:56 PM

One Energy Enterprises LLC Mail - Fwd: One Energy Permit Application Follow Up

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[Quoted text hidden]



James Dunn &lt;jdunn@oneenergyllc.com&gt;

---

**Fwd: One Energy Permit Application**

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Jessica Grosso <jgrosso@oneenergyllc.com>  
To: James Dunn <jdunn@oneenergyllc.com>

Wed, Jun 8, 2022 at 2:51 PM

----- Forwarded message -----

From: Paul Runion <paparunion@gmail.com>  
Date: Wed, May 11, 2022 at 4:16 PM  
Subject: Re: One Energy Permit Application  
To: Jessica Grosso <jgrosso@oneenergyllc.com>

Sounds good. See you then.

On Wed, May 11, 2022, 11:11 AM Jessica Grosso &lt;jgrosso@oneenergyllc.com&gt; wrote:

Paul,

Great, I'm glad you'll be able to join. We have confirmed the meeting time is 10am and the location is 2511 Countryside Drive, Fremont Ohio. Let me know if you want me to send over a meeting invite!

See you on Monday!

All the best,  
Jessica**JESSICA GROSSO**

SVP, Head of Project Planning and Technology

Mobile: 419-890-8555

jgrosso@oneenergyllc.com

On Wed, May 11, 2022 at 10:39 AM Paul Runion <paparunion@gmail.com> wrote:  
Yes, I would like to attend.

On Tue, May 10, 2022, 4:01 PM Jessica Grosso &lt;jgrosso@oneenergyllc.com&gt; wrote:

Good Afternoon Paul,

I wanted to reach out to see if you'd like to join myself, One Energy's CEO Jereme Kent, Wade Weaver, Beth Tischler, and John Willey on Monday for an in person conversation about the permit application? Beth reached out to me today - she thinks an in person conversation would work best to make sure she had all the information about the application. We're going to meet at the County Offices on Monday at 10am (still to be confirmed time and location). I wanted to make sure we were keeping the township informed so I wanted to reach out to you to see if you'd like to be a part of that conversation?

If you are interested I will let you know as soon as we lock down the time and location for the meeting.

All the best!  
Jessica

6/8/22, 2:57 PM

One Energy Enterprises LLC Mail - Fwd: One Energy Permit Application

**JESSICA GROSSO**

SVP, Head of Project Planning and Technology

[jgrosso@oneenergyllc.com](mailto:jgrosso@oneenergyllc.com)

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12385 Township Rd. 215 | Findlay, OH 45840



James Dunn <jdunn@oneenergyllc.com>

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## Fwd: One Energy Internal Zoning Memo

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Jessica Grosso <jgrosso@oneenergyllc.com>  
To: James Dunn <jdunn@oneenergyllc.com>

Wed, Jun 8, 2022 at 2:52 PM

----- Forwarded message -----

From: Lori Kepus <woodvilletwp@gmail.com>  
Date: Mon, May 23, 2022 at 4:14 PM  
Subject: Re: One Energy Internal Zoning Memo  
To: Jessica Grosso <jgrosso@oneenergyllc.com>

Sorry. I haven't heard anything yet.

Lori

On Mon, May 23, 2022 at 4:06 PM Jessica Grosso <jgrosso@oneenergyllc.com> wrote:

Good Afternoon Lori,  
We were wondering if you had heard any news from Beth Tischler? Did she need any additional information from us?

Thank you!  
Jessica

### JESSICA GROSSO

SVP, Head of Project Planning and Technology

Mobile: 419-890-8555

jgrosso@oneenergyllc.com



On Tue, May 17, 2022 at 10:54 AM Lori Kepus <woodvilletwp@gmail.com> wrote:  
I will forward this email to Beth Tischler.

Please also note that the email you are using for us is our old one and we do not see those right away.

Our new email is woodvilletwp@gmail.com.

Thank you.

Lori Kepus, Fiscal Officer  
Woodville Township

On Mon, May 16, 2022 at 10:00 PM Lori <woodvilletwp@embarqmail.com> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** Jessica Grosso <jgrosso@oneenergyllc.com>  
**Date:** May 16, 2022 at 5:13:48 PM EDT  
**To:** Paul Runion <paparunion@gmail.com>, WOODVILLETWP@embarqmail.com  
**Cc:** Jereme Kent <jeremekent@oneenergyllc.com>  
**Subject:** One Energy Internal Zoning Memo

Paul and Lori,

At the meeting this morning about the One Energy permit application I believe it was stated that the preference is for all communication to come through you all.

In the meeting we let Beth Tischler know that we would send over our internal legal memo about our permit application and how we came to our conclusion. We also said we'd include relevant case law.

Would you be able to forward this onto Beth Tischler for us? I can also send it directly to her if you'd prefer I do that.

Thank you!  
Jessica

**JESSICA GROSSO**

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jgrosso@oneenergyllc.com

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—

**JESSICA GROSSO**

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jgrosso@oneenergyllc.com

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12385 Township Rd. 215 | Findlay, OH 45840



James Dunn <jdunn@oneenergyllc.com>

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**Fwd: Permitting**

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Jessica Grosso <jgrosso@oneenergyllc.com>  
To: James Dunn <jdunn@oneenergyllc.com>

Wed, Jun 8, 2022 at 2:53 PM

May 23rd I mean.

On Wed, Jun 8, 2022 at 2:52 PM Jessica Grosso <jgrosso@oneenergyllc.com> wrote:

This email shows I called Lori and the township on May 31st.

----- Forwarded message -----

From: **Jessica Grosso** <jgrosso@oneenergyllc.com>  
Date: Tue, May 24, 2022 at 10:26 AM  
Subject: Permitting  
To: Wade Weaver <Wade.Weaver@martinmarietta.com>

Wade,

I spoke to Lori at the township yesterday and she hasn't had any updates from the county prosecutor. Have you heard anything on your end from anyone?

Thanks,  
Jessica

**JESSICA GROSSO**

SVP, Head of Project Planning and Technology

jgrosso@oneenergyllc.com

www.oneenergy.com



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12385 Township Rd. 215 | Findlay, OH 45840



6/8/22, 2:58 PM

One Energy Enterprises LLC Mail - Fwd: Permitting

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**JESSICA GROSSO**

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EXHIBIT D



**WOODVILLE TOWNSHIP, SANDUSKY COUNTY, OHIO**  
**MARTIN MARIETTA ZONING MEMORANDUM**  
**V20211013**

## **INTRODUCTION**

The following memorandum sets forth the local zoning resolution and process expected for a wind project in Woodville Township, Sandusky County, Ohio (the "Project"). The Project consists of three (3), 1.5 MW wind turbines for a total nameplate capacity of 4.5 MW. The Project will be onsite of the Martin Marietta manufacturing facility (the "Facility") and will directly power the Facility. Woodville Township is governed by the Woodville Township, Sandusky County, Ohio Zoning Resolution (the "Resolution"). Since the Project is less than 20 MW in nameplate capacity it is governed by local zoning and not the state power siting board.<sup>1</sup> The current zoning of the land selected for turbine siting is categorized as "M-2" – Heavy Industrial District.

The Resolution does provide regulations for a specific class of wind energy conversion systems, small wind energy systems, but those regulations, as written, do not apply to the wind turbines being used for this Project. Section 7.5 of the Resolution provides regulations for a "small wind energy system."<sup>2</sup> A small wind energy system is defined as, "a wind energy conversion system consisting of a wind turbine and associated control of conversion electronics which has a rated capacity of *not more than* 100 kW per tower, or 1 MW per group or field of towers. The generated power is intended primarily to reduce on-site consumption of utility power by the property owner."<sup>3</sup> The Project is designed to reduce on-site consumption of power for the Facility. That said, the size, scope, and additional requirements outlined in the Resolution only apply to smaller wind turbines than the ones that will be used for the Project.<sup>4</sup> The Resolution does not expressly prohibit wind energy systems or wind turbines that do not meet the specifications outlined in Section 7.5 (see more below). As a result of a plain reading of the Resolution, it is One Energy's position that the Project should not be permitted based on the "small wind energy system" section and instead should be permitted based on the rest of the provisions within the Resolution as written.

## **PATH FORWARD**

Since the wind turbines proposed for the Project do not fit under a specific enumerated definition, but are also not prohibited, they should be analyzed under the more general definitions of the Resolution. Each wind turbine for the Project should be considered a "structure" under the Resolution. A structure is defined as, "a combination of materials forming a construction that is safe and stable and includes, among other things, stadiums, platforms, observation towers, etc."<sup>5</sup> A "building" is generally defined as, "any structure designed to support, enclose, shelter or protect persons, animals, chattels, or property."<sup>6</sup> The wind turbines

---

<sup>1</sup> See Ohio Revised Code Section 4906.13

<sup>2</sup> See Resolution Section 7.5 (p. 33)

<sup>3</sup> See Section 3.74 (p. 11)

<sup>4</sup> See Section 7.5 additional requirements (p. 33)

<sup>5</sup> Section 3.77 (p. 12)

<sup>6</sup> Section 3.13 (p. 5)

used for the Project will not be constructed for the purposes listed under the “building” definition. Accordingly, the wind turbines are most appropriately categorized as “structures” for zoning purposes.

The wind turbines should also be considered an “other manufacturing use” in a “M-2” Heavy Industrial District. Under the Resolution, uses permitted in the M-2 District generally cannot be operated economically without creating some conditions which may be objectionable to the residents of adjoining properties.<sup>7</sup> For that reason, those uses must be grouped in areas where similar industrial uses are now located.<sup>8</sup> To that end, the Project will be grouped on the same property as the Facility which currently supports a mining operation. For the Project to be considered an “other manufacturing use,” it must have similar performance characteristics to the list outlined in Section 4.8-1 in the Resolution.<sup>9</sup> The Project is similar to the other uses because the wind turbines will provide an essential service (generation of electricity) that is integral to the Facility’s ability to operate. Essentially all the electricity produced by the wind turbines will be consumed, in the process of mining and manufacturing, by the industrial uses at the Facility. The wind turbines will not create conditions that rise to the level of being objectionable because they do not emit noxious odors, create nuisance level noise, or produce hazardous materials as some of the permitted uses listed do.<sup>10</sup>

Therefore, each wind turbine should be considered a “structure” and an “other manufacturing use” under the Resolution and accordingly a permitted use.<sup>11</sup> The Project will have no height limitation and the yard setbacks are generally acceptable and outlined in the Resolution.<sup>12</sup> As a permitted use, the Project needs to submit a standard permit and go through the zoning application process outlined in Section 14.1 which does not require a public meeting.<sup>13</sup>

## OTHER NOTABLE CONSIDERATIONS

As mentioned above, Section 7.5 is tailored to a single class of wind energy conversion system but does not prohibit other wind energy conversion systems or wind turbines in general. Additionally, Section 7.7 of the Resolution explicitly outlines uses that are prohibited in the Township and wind turbines are not one of them.<sup>14</sup> Taking that into account along with the Ohio Supreme Court’s longstanding principle of construing ambiguity in zoning resolutions in favor of the property owner<sup>15</sup>, it is reasonable to conclude that wind turbines, that are not small wind energy systems, are a permitted use if they are located in a district where there is a compatible use and the wind turbines do not create any additional objectionable condition.

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<sup>7</sup> Section 4.8-1 (p. 21)

<sup>8</sup> Section 4.8-1

<sup>9</sup> Section 4.8-1

<sup>10</sup> Section 4.8-1

<sup>11</sup> See Sections 3.77 & 4.8-1 (p. 12 & 21)

<sup>12</sup> See Section 4.8-4 – 4.8-8 (p. 22)

<sup>13</sup> See Section 14.1 (p. 59)

<sup>14</sup> See Section 7.7 (p. 33)

<sup>15</sup> Cleveland Clinic Found. v. Cleveland Bd. of Zoning Appeals, 141 Ohio St.3d 318, 2014-Ohio-4809 (p. 13-14)

## CONCLUSION

For all the reasons stated above, each wind turbine should be considered a “structure” that is performing a permitted use (i.e., “other manufacturing use”) under the Resolution. That will require obtaining a zoning permit from the Board of Township Trustees. One Energy will work with Martin Marietta to coordinate this process and to adjust the design to factor in the Resolution should it be necessary.

## REFERENCES

- 3.74 **Small Wind Energy System:** A wind energy conversion system consisting of a wind turbine and associated control or conversion electronics which has a rated capacity of not more than 100 KW per tower, or 1 MW per group or field of towers. The generated power is intended primarily to reduce on-site consumption of utility power by the property owner.
- 4.8 **“M-2” HEAVY INDUSTRIAL DISTRICT**
- 4.8-1 **Uses Permitted:** Uses permitted in this District generally cannot be operated economically without creating some conditions which may be objectionable to the residents of adjoining properties. For this reason, these uses must be grouped in areas where similar industrial uses are now located, or in areas separate from residential and commercial activities.
- Permitted uses are:
- a. Any use permitted in the “M-1” District provided that no building or portion thereof shall be hereafter erected or structurally altered, converted, or used for permanent dwelling purposes other than farm dwellings.
  - b. Asphalt plant.
  - c. Boiler works.
  - d. Cement or cinder block manufacture.
  - e. Glass manufacture.
  - f. Grain Elevators.
  - g. Fat rendering or lard refining.
  - h. Glucose, dextrin, or starch manufacture.
  - i. Metal Stamping.
  - j. Paint, oil, shellac, varnish, or turpentine manufacture.
  - k. Paper manufacture.
  - l. Sauerkraut or pickle, etc. manufacture.
  - m. Stone mill.
  - n. Other manufacturing plants and uses having performance characteristics similar to those listed in this section.
  - o. Quarrying operations.
- 4.8-4 **Height Limit:** There shall be no height limit in this District.
- 4.8-5 **Lot Area:** Shall be a minimum lot size of one (1) acre.

- 4.8-6 **Front Yard:** There shall be a front yard of not less than fifty (50) feet, but where such front yard is opposite an "A" or "R" District, it shall be a minimum of seventy-five (75) feet deep and shall be used for landscape purposes only.
- 4.8-7 **Side Yard:** Same as specified for the "M-1" District.
- 4.8-8 **Rear Yard:** Same as specified for the "M-1" District.
- 7.5 **Small Wind Energy Systems:** A wind energy conversion system consisting of a wind turbine and associated control or conversion electronics which has a rated capacity of not more than 100 KW per tower or 1 MW per group or field of towers. The generated power is intended primarily to reduce on site consumption of utility power by the property owner. Additional criteria:
1. Rotors 23 inches to 21 feet in diameter mounted on a 65-to-140-foot tower.
  2. Suitable for use by rural farms and/or residences in an Agricultural District.
  3. Able to operate in areas with Class 2 to 3 wind resources.
  4. Any wind turbine of 500 watts or less does not need a zoning permit, however, if installed on a tower, the tower must meet all setback, height, noise, safety, and aesthetic requirements of a permitted wind turbine.
- 7.7 **Prohibited Uses:** The following uses are prohibited in the Township:
- a. Manufacture of explosives, fireworks, gunpowder, and ammunition.
  - b. Storage or disposal of slaughterhouse refuses, rancid fats, and/or garbage.
  - c. Dumps.
  - d. Chemical waste disposal.
  - e. Petroleum waste disposal.
  - f. Hazard waste disposal, incineration, or storage.
  - g. Junk yards or salvage operations that utilize incineration.
- 14.1 **Zoning Permits**
- 14.1-1 **Requirements**
- a. No person shall locate, erect, construct, enlarge, or structurally alter any nonfarm buildings or structures within the Township without first obtaining a zoning permit.
  - b. No zoning permit shall be issued unless the plans for the proposed building or structure fully comply with the zoning regulations.
  - c. No zoning permit shall be issued until such time as a copy of the applicant's deed or land contract is provided to the Board of Trustees of Woodville Township, or their authorized agents. The applicant's deed or land contract must have been previously properly recorded at the Sandusky County Recorder's Office unless the sale of the property to the applicant is conditional upon the zoning permit. Such information shall be provided to the Trustees at the time the application is made.
  - d. A zoning permit requires that construction be initiated within one (1) year of issuance of the permit and completed within two (2) years. Non-compliance will result in revocation of the issued zoning certificate.



14.1-2 Applications: Written applications for a zoning permit shall be made to the Board of Township Trustees, or the Township Zoning Inspector. Accurate information shall be supplied by the applicant if requested by the agent with regard to the size and location of the lot, the size and location of the buildings and structures proposed and existing on the lot, the dimensions of all yards and open spaces, and other information necessary for the enforcement of this Resolution.

14.1-3 Fees: The Board of Township Trustees shall establish the fees for the zoning permits for residential, agriculture, commercial, and industrial districts, conditional and special use, variance, and other related administrative actions.

Case: *Cleveland Clinic Found. v. Cleveland Bd. of Zoning Appeals*, 141 Ohio St.3d 318, 2014-Ohio-4809

- a. {¶ 34} The first of these principles states that zoning ordinances are to be construed in favor of the property owner because they are in derogation of the common law and deprive the property owner of uses to which the owner would otherwise be entitled. *Univ. Circle, Inc. v. Cleveland*, 56 Ohio St.2d 180, 184, 383 N.E.2d 139 (1978). Thus, we have long held that restrictions imposed on the use of private property via ordinance, resolution, or statute must be strictly construed, and the scope of the restrictions cannot be extended to include limitations not clearly prescribed. See *Saunders v. Clark Cty. Zoning Dept.*, 66 Ohio St.2d 259, 261, 421 N.E.2d 152 (1981); see also *State ex. rel. Moore Oil Co. v. Dauben*, 99 Ohio St. 406, 124 N.E. 232 (1919). In other words, we do not permit zoning “limitations by implication.” *Herley*, 90 Ohio St.3d at 152, 735 N.E.2d 433.
- b. {¶ 35} Second, we have long held that when applying a zoning provision, a court must not view the provision in isolation; rather, its “meaning should be derived from a reading of the provision taken in the context of the entire ordinance.” *Id.*