



Subject: Recommendation Report for Proposed Zoning By-law Amendment - Vacant Lot Elizabeth Street

To: Council

From: Development and Government Relations Department

Report Number: 2024-210

Meeting Date: November 12, 2024

Recommendation:

That Development and Government Relations Department – Planning Division Report 2024-210 be received for information;

That the Zoning By-law Amendment attached as Appendix A be approved; and

That the City Clerk be directed to issue the Notice of Passing in accordance with the *Planning Act*.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding an application initiated by the City of Port Colborne for the lands legally known as Concession 1, Part of Lots 23 and 24, being Part 1 on Plan 59R-10294 in the City of Port Colborne, Regional Municipality of Niagara, municipally known as vacant City-owned lands on Elizabeth Street north of the Friendship Trail.

Background:

The application for Zoning By-law Amendment proposes to change the zoning on a portion of the lands from Residential Development (RD) to Environmental Protection (EP) to recognize the flood hazard.

This application has been initiated by the City of Port Colborne in response to previous comments received from the Niagara Peninsula Conservation Authority (NPCA) with respect to these City-owned lands, and the lands directly north, which are subject to an approved Draft Plan of Subdivision and previous Zoning By-law Amendment.

As part of the previous applications, the NPCA identified areas within the City-owned lands which are subject to their flood hazard policies. NPCA policies require that lands within flood hazards be restricted from development and be placed in a suitable Environmental Protection zone.

A Public Meeting was held on November 5, 2024, where Planning staff presented the application to City Council.

Discussion:

Planning Legislation

Planning staff reviewed these applications with consideration of several planning documents including the *Planning Act*, R.S.O, 1990, as amended, the *Provincial Planning Statement (2024)*, the *Regional Official Plan*, the *City of Port Colborne Official Plan* and the *City of Port Colborne Comprehensive Zoning By-law 6575/30/18*. For the applications to be supported by Staff, it must conform to or be consistent with the aforementioned plans.

Planning Act, 1990

Section 2 of the *Planning Act* (the “Act”) outlines matters of provincial interest.

Section 3 of the Act requires that, in exercising any authority that affects a planning matter, planning authorities “shall be consistent with the policy statements” issued under the Act and “shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be”.

Section 34 of the Act allows for the consideration of amendments to the Zoning By-law.

Provincial Planning Statement (2024)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS provides direction on natural and human-made hazards.

Section 5.1.1 provides that development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards.

Further, Section 5.2 outlines that planning authorities shall work in collaboration with conservation authorities to identify hazardous lands and manage development in these areas. The policies direct that development shall generally be directed to areas outside of lands that are impacted by flooding hazards. The policies are clear that development shall not be permitted within areas that would be inaccessible by people and vehicles during times of flooding hazards.

As this application intends to protect the flood hazard lands from inappropriate development, Planning staff find that the proposed amendments to the Zoning By-law are consistent with the PPS and its relevant policies.

Niagara Official Plan (2022)

The Niagara Official Plan (NOP) provides a policy framework for planning matters under the Region's purview.

Similarly to the PPS, Section 3.1.23.1 of the NOP provides that development shall generally be directed to areas outside of hazardous lands such as lands impacted by flooding hazards. Further Section 3.1.23.2 states that development shall not be permitted within areas that would be inaccessible to people and vehicles during times of flooding hazards.

Based on the intent of the application, which is to protect these lands from inappropriate development, Planning staff find that the proposed amendments to the Zoning By-law conform to the NOP.

Port Colborne Official Plan

The City Official Plan provides similar policies to the PPS and NOP as referenced above.

Section 4.2.4.1 e) states that:

Development or site alteration shall not be permitted to locate in hazardous lands or hazardous sites where the use is:

- i) An institutional use associated with hospitals, nursing homes, pre-school, school nurseries, day care and schools, where there is a threat to the safe evacuation of the sick, the elderly, persons with disabilities or the young during an emergency as a result of erosion;*
- ii) An essential emergency service such as that provided by fire, police and ambulance stations and electrical substations, which would be impaired during an emergency as a result of flooding, the failure of floodproofing measures and/or protection works, and/or erosion; and*
- iii) Uses associated with the disposal, manufacture, treatment or storage of hazardous substances*

Section 4.2.4.1 o) states that:

Development shall generally be directed to areas outside of hazardous sites such as areas of unstable soils, organic soils or unstable bedrock. Development and site alteration will not be permitted on hazardous sites unless a geotechnical engineering study prepared and signed by a qualified engineer has demonstrated to the satisfaction of the City in consultation with the Niagara Peninsula Conservation Authority that the development is feasible.

As the purpose of this application is to protect these lands from inappropriate development within a flooding hazard, staff find the Zoning By-law Amendment application is appropriate and conforms to the policies of the Official Plan.

City of Port Colborne Zoning By-law 6575/30/18

The subject lands are currently zoned Residential Development (RD). The purpose of this application is to rezone a portion of the lands to recognize the flooding hazard on the subject lands. The intent of the Zoning By-law Amendment is to restrict the lands from inappropriate development. The majority of the lands will remain in the RD zone, with the exception of the area subject to the flood hazard. The application is only subject the area highlighted in the green dotted area on the diagram below.



Internal Consultations:

The Notice of Public Meeting was circulated in accordance with O. Reg 545/06 to required agencies and departments on October 15, 2024. As of the date of preparing this report, the following comments have been received:

Enbridge

No objections to the proposed application.

Ministry of Transportation Ontario (MTO)

The MTO has no comments on the application as it is located outside of the MTO permit control area.

Financial Implications:

There are no financial implications with this report.

Public Engagement:

The Notice of Public Meeting was circulated in accordance with O. Reg 545/06 on October 15, 2024. As of the date of preparing this report, no comments from the public have been received.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Environment and Climate Change
 - Sustainable and Resilient Infrastructure
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Conclusion:

It is the opinion of Planning staff that the proposed Zoning By-law Amendment application is consistent with the PPS, conforms to Regional and City policies and requirements. The application will help protect these lands from inappropriate development in the future. Planning staff recommend that Council approve the application.

Appendices:

- a. Zoning By-law Amendment

Respectfully submitted,

David Schulz, BURPI, MCIP, RPP

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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.